

**NOMINATIONS OF RITA HAYES,
KENNETH S. APFEL,
NANCY-ANN MIN DePARLE,
OLIVIA A. GOLDEN, DAVID A. LIPTON,
TIMOTHY F. GEITHNER, GARY GENSLER,
AND NANCY KILLEFER**

HEARING
BEFORE THE
COMMITTEE ON FINANCE
UNITED STATES SENATE
ONE HUNDRED FIFTH CONGRESS
FIRST SESSION
ON THE
NOMINATIONS OF

RITA HAYES, TO BE DEPUTY U.S. TRADE REPRESENTATIVE, WITH RANK OF AMBASSADOR, KENNETH S. APFEL, TO BE COMMISSIONER OF SOCIAL SECURITY; NANCY-ANN MIN DePARLE, TO BE ADMINISTRATOR OF HEALTH CARE FINANCING ADMINISTRATION OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES; OLIVIA A. GOLDEN, TO BE ASSISTANT SECRETARY FOR FAMILY SUPPORT OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES; DAVID A. LIPTON, TO BE UNDER SECRETARY OF THE TREASURY FOR INTERNATIONAL AFFAIRS; TIMOTHY F. GEITHNER, TO BE ASSISTANT SECRETARY OF THE TREASURY FOR INTERNATIONAL AFFAIRS; GARY GENSLER, TO BE ASSISTANT SECRETARY OF THE TREASURY FOR FINANCIAL MARKETS; NANCY KILLEFER, TO BE ASSISTANT SECRETARY OF TREASURY FOR MANAGEMENT AND CHIEF FINANCIAL OFFICER

SEPTMBER 10, 1997



Printed for the use of the Committee on Finance

U.S. GOVERNMENT PRINTING OFFICE

47-616-CC

WASHINGTON : 1997

For sale by the U.S. Government Printing Office
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402
ISBN 0-16-056572-3

5361-18

COMMITTEE ON FINANCE

WILLIAM V. ROTH, JR., Delaware, *Chairman*

JOHN H. CHAFEE, Rhode Island

CHARLES E. GRASSLEY, Iowa

ORRIN G. HATCH, Utah

ALFONSE M. D'AMATO, New York

FRANK H. MURKOWSKI, Alaska

DON NICKLES, Oklahoma

PHIL GRAMM, Texas

TRENT LOTT, Mississippi

JAMES M. JEFFORDS, Vermont

CONNIE MACK, Florida

DANIEL PATRICK MOYNIHAN, New York

MAX BAUCUS, Montana

JOHN D. ROCKEFELLER IV, West Virginia

JOHN BREAUX, Louisiana

KENT CONRAD, North Dakota

BOB GRAHAM, Florida

CAROL MOSELEY-BRAUN, Illinois

RICHARD H. BRYAN, Nevada

J. ROBERT KERREY, Nebraska

LINDY L. PAULL, *Staff Director and Chief Counsel*

MARK A. PATTERSON, *Minority Staff Director and Chief Counsel*

CONTENTS

OPENING STATEMENTS

| | Page |
|--|------|
| Roth, Hon. William V., Jr., a U.S. Senator from Delaware, chairman, Committee on Finance | 1 |

CONGRESSIONAL WITNESSES

| | |
|--|----|
| Thurmond, Hon. Strom, a U.S. Senator from South Carolina | 1 |
| Hollings, Hon. Ernest F., a U.S. Senator from South Carolina | 2 |
| Frist, Hon. Bill, a U.S. Senator from Tennessee | 34 |

ADMINISTRATION NOMINEES

| | |
|--|----|
| Hayes, Rita, to be Deputy U.S. Trade Representative, with rank of Ambassador | 3 |
| Apfel, Kenneth S., to be Commissioner of Social Security | 18 |
| DeParle, Nancy-Ann Min, to be Administrator of Health Care Financing Administration of the Department of Health and Human Services | 35 |
| Golden, Olivia A., to be Assistant Secretary for Family Support of the Department of Health and Human Services | 36 |
| Lipton, David A., to be Under Secretary of the Treasury for International Affairs | 50 |
| Geithner, Timothy F., to be Assistant Secretary of the Treasury for International Affairs | 51 |
| Gensler, Gary, to be Assistant Secretary of the Treasury for Financial Markets | 52 |
| Killefer, Nancy, to be Assistant Secretary of Treasury for Management and Chief Financial Officer | 52 |

ALPHABETICAL LISTING AND APPENDIX MATERIAL

| | |
|---|-----|
| Apfel, Kenneth S.: | |
| Testimony | 18 |
| Prepared statement | 57 |
| Biographical | 62 |
| Responses to questions from committee members | 68 |
| DeParle, Nancy-Ann Min: | |
| Testimony | 35 |
| Prepared statement | 89 |
| Biographical | 92 |
| Responses to questions from committee members | 107 |
| Frist, Hon. Bill: | |
| Testimony | 34 |
| Geithner, Timothy F.: | |
| Testimony | 51 |
| Prepared statement | 171 |
| Biographical | 174 |
| Responses to questions from committee members | 181 |
| Gensler, Gary: | |
| Testimony | 52 |
| Prepared statement | 182 |
| Biographical | 183 |

IV

| | Page |
|---|------|
| Golden, Olivia A.: | |
| Testimony | 36 |
| Prepared statement | 191 |
| Biographical | 191 |
| Responses to questions from committee members | 201 |
| Hatch, Hon. Orrin G.: | |
| Prepared statement | 214 |
| Hayes, Rita: | |
| Testimony | 3 |
| Prepared statement | 214 |
| Biographical | 220 |
| Responses to questions from committee members | 228 |
| Hollings, Hon. Ernest F.: | |
| Testimony | 2 |
| Prepared statement | 255 |
| Killefer, Nancy: | |
| Testimony | 52 |
| Prepared statement | 255 |
| Biographical | 257 |
| Lipton, David A.: | |
| Testimony | 50 |
| Prepared statement | 262 |
| Biographical | 264 |
| Responses to questions from committee members | 274 |
| Roth, Hon. William V., Jr.: | |
| Opening statement | 1 |
| Thurmond, Hon. Strom: | |
| Testimony | 1 |

NOMINATIONS OF RITA HAYES, KENNETH S. APFEL, NANCY-ANN MIN DePARLE, OLIVIA A. GOLDEN, DAVID A. LIPTON, TIMOTHY F. GEITHNER, GARY GENSLER, AND NANCY KILLEFER

WEDNESDAY, SEPTEMBER 10, 1997

**U.S. SENATE,
COMMITTEE ON FINANCE,
Washington, DC.**

The hearing was convened, pursuant to notice, at 10:00 a.m., in room SD-215, Dirksen Senate Office Building, Hon. William V. Roth, Jr. (chairman of the committee) presiding.

Also present: Senators Chafee, Grassley, D'Amato, Nickles, Gramm, Moynihan, Rockefeller, Breaux, Conrad, and Kerrey.

OPENING STATEMENT OF HON. WILLIAM V. ROTH, JR., A U.S. SENATOR FROM DELAWARE, CHAIRMAN, COMMITTEE ON FINANCE

The CHAIRMAN. The committee will please be in order.

Today we will review eight nominations to fill positions in the area of international trade, health care, welfare, and debt management.

Our first nominee is Rita Hayes, who is currently serving as our Chief Textile Negotiator. She has been nominated to the position of Deputy U.S. Trade Representative in Geneva. In that capacity, she would represent the United States at the World Trade Organization.

At this time I am very pleased to recognize Senator Thurmond and Senator Hollings, who have asked for permission to introduce the nominee.

Senator Thurmond.

STATEMENT OF HON. STROM THURMOND, A U.S. SENATOR FROM SOUTH CAROLINA

Senator THURMOND. I am pleased to attend before this distinguished committee to introduce Rita Hayes. Ms. Hayes is from my home county of Ashville, SC, originally. I have known her family for many years.

She has had an outstanding tenure in her current position as Chief Textile Negotiator for the Office of the U.S. Trade Representative.

Ms. Hayes has proven to be capable and committed to improving U.S. textile and trade interests. She is a lady of integrity and honor whom I hold in high esteem.

I not only come today to introduce her to the committee, but also to strongly recommend that she be confirmed as Deputy U.S. Trade Representative in Geneva.

She is a sister to the former Congressman Butler Derrick of South Carolina, who served here so capably for many years, a very fine gentleman. I think he is here this morning.

We are proud of this family, we are proud of Rita, and we are confident she will fulfill well the trust reposed in her if she is confirmed.

Again, I strongly recommend her to the committee. Thank you very much, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Thurmond.
Senator Hollings.

STATEMENT OF HON. ERNEST F. HOLLINGS, A U.S. SENATOR FROM SOUTH CAROLINA

Senator HOLLINGS. Thank you, Mr. Chairman and members of the committee.

It is a privilege to endorse Rita Hayes here as the Deputy Administrator in charge of textile trade at the World Trade Organization. I would ask your consent that my full statement be included in the record.

The CHAIRMAN. Without objection.

[The prepared statement of Senator Hollings appears in the appendix.]

Senator HOLLINGS. I will summarize, as my senior colleague has done.

Rita Hayes comes with tremendous experience. She started off as a school teacher. She worked later on for Governor Riley on his Nuclear Advisory Commission, now-Secretary Riley, when he was the Governor of South Carolina.

She came around and worked as the chief of staff for Congressman John Spratt, who is now the Ranking Member of our Budget Committee over on the House side, also working with former Congresswoman Elizabeth Patterson in South Carolina.

Of course, for the past several years she has worked as a trade representative in negotiations not only in China, but around the world in various ways in an outstanding fashion. She has got the experience, and I am happy to endorse her nomination here this morning.

The CHAIRMAN. Thank you very much, Senator Hollings.

I know both you gentlemen are very busy men and undoubtedly have other matters to attend to, but I appreciate your coming forth today to introduce Ms. Hayes.

Ambassador Hayes, are there any members of your family here that you would like to introduce?

Ms. HAYES. Yes, Mr. Chairman. Thank you very much.

I have with me today my brother, Congressman Butler Derrick, who served many years in Congress. I am delighted to have him here as a brother of support.

Sitting next to him is my sister, Mary Scott Guest, who is from Richmond, Virginia. To show you how bipartisan we are, my sister is married to Raymond Guess, who is Minority Leader of the House of Delegates of Virginia on the Republican side.

Then I have with me one of my children, my oldest son, John Hayes, who works here on the Hill for a member of Congress. My two younger daughters could not be here. They are in college. But they called earlier this morning to wish me luck.

My daughter, Mary Scott. Maybe she is here. College students sometimes have a way of sneaking in. But I am delighted to have my family here and many friends of support.

I was delighted to have both Senator Thurmond and Senator Hollings say such kind words. Thank you very much.

The CHAIRMAN. It is a pleasure to welcome your family on a day that I know is of great importance to you, as well as to them. It is a pleasure to welcome them.

I would now swear in the nominee, if you would please rise and raise your right hand. This is the practice on nominations.

[Whereupon, Rita Hayes was duly sworn.]

The CHAIRMAN. Ambassador Hayes, do you have a statement you would like to make?

Ms. HAYES. Mr. Chairman, I have a longer statement that I have given to the committee, but at this particular time I have a brief opening that I would like to take from that statement.

The CHAIRMAN. Please proceed.

STATEMENT OF RITA HAYES, TO BE DEPUTY U.S. TRADE REPRESENTATIVE, WITH RANK OF AMBASSADOR

Ms. HAYES. Thank you, Mr. Chairman and members of the committee. I am honored to be nominated for the post of Deputy U.S. Trade Representative in Geneva and I am grateful for the opportunity to come before your committee in regard to my confirmation.

We are almost three years into the implementation of the WTO, the World Trade Organization, an historical bargain between the United States and more than 120 nations.

In that bargain each member nation agreed that free trade must go hand in hand with strong rules and an effective enforcement.

The responsibility of this administration and this Congress is to ensure that Americans get the benefit of that bargain. The long-term implications are clear. There are more than 11 million Americans now working in jobs supported by exports, and the exports tend to be high-value goods and service jobs.

America's objective is a rule-based trading system that is open and fair. As we often say, we want to compete on a level playing field. If we are to achieve that objective, we have to exert strong leadership in the WTO.

Before coming to USTR as Chief Textile Negotiator, I served as Deputy Assistant Secretary at the Department of Commerce in the Office of Textiles and Apparel and Consumer Goods. In that position I served as chairman of CITA, the Committee for the Implementation of Textile Agreements. These responsibilities have taken me to Geneva.

I was there also for the end-stage of the Uruguay Round and helped wrap up the agreement on textiles and clothing, which allowed us to conclude the round.

Since then, as Chief Textile Negotiator, I have dealt extensively with the World Trade Organization. I have defended our trade decisions before the World Trade textile monitoring body, and also before the Council on Trading Goods.

I have overseen appeals to dispute resolution panels of the WTO. In 1996, I launched an initiative within the committee and the Council on Trading Goods to improve market access for U.S. exports.

I have also worked at length with the European Union on very contentious issues such as rules of origin. In addition, over the past 5 years I have negotiated bilaterals with countries in all regions of the world.

Therefore, I bring to this position five years of experience. I am the third Chief Textile Negotiator to be nominated to the Geneva post. My present position has given me experience in a very difficult sector, but it is experience in the major foundations of the WTO and those are in opening markets and developing a rule-based system on enforcing agreements.

My job as deputy in Geneva will be to work with teams that are experts in the tasks assigned them. I am not an expert in all of these subjects, but let me give you a quick overview of where we stand and what we have ahead of us at the WTO.

First, the United States must insist that our trading partners implement the Uruguay Round commitments. The United States has upheld its trade agreements too often, only to be met with obstacle courses, foot dragging, and inaction.

We cannot accept that response. Until other countries meet their commitments, all of their commitments, we are going to stay on their case.

Once trade laws and rules of the road are in place, we have a right to see them enforced. The WTO has developed and has demanded enforcement, more attention and resources.

From 1995 to 1996, the administration increased the number of WTO enforcement complaints, from six complaints to 15. In the first half of 1997, we brought an additional 10 complaints.

We want the members of the World Trade Organization to know that when the rules of trade are not adhered to, we will seek redress and we will be fair, but we will be effective litigators.

Aggressive enforcement yields results that reach far beyond any single case. They show that the WTO can be a fair and effective means of dispute settlement. They set precedents to guide policy decisions, and they add strength and authority to sanctions when sanctions are necessary. Perhaps more importantly, they affect the nations about our word because they underscore the message that the United States will not allow trade commitments to be taken lightly.

A second key goal is generating continuous, rather than round by the round, trade negotiations. The world economy moves too fast and the stakes are high for nations to put off market openings until the results of the next rounds are reached.

As you know, Mr. Chairman, on the President's latest initiative in trade, renewal of fast-track authority, we will be consulting with you, members of your committee, and Congress to see that we have the right legislation that is to be introduced. The President seeks that authority to meet this goal and to keep trade expanding continually.

The goals I have outlined, implementation, enforcement, and expansion, go to the integrity of the WTO trading system. They make clear why process of accession to the WTO is important. These are some of the issues that I will be dealing with, not just the high-profile ones with China and Russia, but the other 29 nations that we will be dealing with that are seeking accession to the WTO.

There are many other issues that I will be dealing with as Deputy USTR Trade Representative, and some of these I am sure you will have questions about today, financial services, the world market in agriculture, and the negotiations to start in 2000 to expand trade in services.

There is a built-in agenda for the Uruguay Round, but let me just close by saying, Mr. Chairman, that I will be glad to address the questions before the committee. I have the commitment and am proud to be part of the drive for trade policies that expand market access and fair competition.

This is a time for great promise for American trade. World trade is becoming more and more important to our Nation's prosperity, and the WTO is becoming more and more important to the world trade, to open a rule-based system in the U.S. firms that can compete and win.

Mr. Chairman, this concludes my prepared remarks and I will be pleased to answer any of your questions.

[The prepared statement of Ms. Hayes appears in the appendix.]

The CHAIRMAN. Thank you, Ms. Hayes.

I will now turn to the standard questions we ask all nominees who come before the Finance Committee.

First, is there anything you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

Ms. HAYES. No, sir.

The CHAIRMAN. Second, do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office for which you have been nominated?

Ms. HAYES. No, sir.

The CHAIRMAN. Third, do you agree without reservation to respond to any reasonable summons to appear and testify before any duly-constituted committee of Congress, if you are confirmed?

Ms. HAYES. No.

The CHAIRMAN. Ms. Hayes, as you know, there have been three very recent articles in the press which raise some serious allegations regarding your negotiations with China earlier this year to set quotas on Chinese textile and apparel exports. Without objection, these articles will be placed in the record.

[The articles appear in the appendix.]

The CHAIRMAN. The articles in the September 8, 1997 editions of Newsweek and Time imply that a major Hong Kong clothing ex-

porter may have used his political connections to influence the outcome of these negotiations.

These articles also report that this Hong Kong exporter has been the subject of a criminal investigation by the U.S. Customs Service for Customs fraud and may have figured in the campaign finance scandal.

In addition, a September 5, 1997 article in the Opinion section of the Wall Street Journal states that one of the big beneficiaries of the quota cuts negotiated with the Chinese was a U.S. textile manufacturer whose president is the wife of the White House Chief of Staff.

For the record, I would ask that you please respond to these points and allegations raised in these articles.

Ms. HAYES. Thank you, Mr. Chairman, and thank you for giving me the opportunity to respond to those news articles.

I have been constantly asked, who influenced this textile agreement that has been hailed not only by the American Textile Association, but the American Apparel Association, the Northern Textile Association, all different association lobbyists, lawyers, retailers, importers, as one of the best agreements and an agreement that benefitted everybody.

It was very discouraging to me in the overall political process, quite frankly, after this agreement had been negotiated in February, to see these articles surface the two weeks before my nomination.

So I would like to take the time to address these point by point and to say that if you or any member of your committee has any additional questions, I will be glad to sit down with them and go over it.

The Textile Agreement in the textile world is a very complex and technical agreement. I tried to be very transparent and very open and accessible to everybody when I was doing this agreement.

If you will let me say before I start that the people who had the most influence on me in this administration this Textile and Apparel Agreement was the textile and apparel workers here in the United States, and also the consumers who were represented by the importers and retailers who had a lot to gain for it.

This is the first time that we have ever gotten a textile and apparel agreement with China that trade was not disrupted. Before, there were always sanctions slapped on, trade was stopped. It was hectic and trade was completely disrupted.

But this time I worked and had a delegation that worked very, very hard to make sure that we got an agreement that was fair to everybody, but it achieved the two objectives that we wanted.

Those objectives were to make sure that the Chinese realize if they are going to have an agreement with us and if they are going to trade with us in this sector, then they are going to play by the rules. Those rules are that they have to enforce their agreement.

Second, we wanted market access. For the first time we achieved real market access with China for this sector, and that was very important for the industry.

But because this has received such wide attention, and not that I want to take all of the committee's time, but I think it is impor-

tant that I go over just some points that you raised in the Newsweek and the Time articles now.

When it became clear that my nomination was going forward for confirmation, another round of unfounded stories began appearing. The article, "Cut From Strange Cloth" in the Newsweek, and also the Time magazine, "The Man in Donagate," and also the Wall Street Journal, each of these stories turns out slightly different details, but they have a lot in common and I think it's important that everybody here in this room today understand the full implication of where they are leading.

They were written by reporters that do not even know the textile trade, they do not even cover the issues. Yet they contained details that can only come from someone who follows the subject continuously.

I think that was shown in some articles that came out later, not only in the Journal of Commerce, but also in some of the trade magazines that follow the textile issues. This was just maliciously done towards my confirmation.

I do not know why anybody would not like me, because I have been dealing in a sector that everybody likes. Textiles, you cannot win. I mean, you do something for one side, the other side gets upset. But I have an executive order to follow by the President.

If you look at the article "Cut From the Cloth," it is only strange because of the way he writes the facts and the little things that he puts in there that are not true. So let me just state the facts. We had three days of round-the-clock negotiations and I felt like we were finally getting an agreement. I sat down to brief the Americans who had come to Beijing to monitor the agreements.

At every trade negotiation you have parties that come who have a stake. I had 25 and 26 people at different times. Some of them would be on one negotiation, some of them would be on another.

But in Beijing, we had 25 or 26 people who were interested in this agreement. We had associations, we had attorneys, we had lobbyists, we had interested parties coming over from Hong Kong and other countries just for the negotiations, to see what would happen and to see what would end up in the details of the agreement.

There is no clear textile advisory system. We have the ISACs, as you are aware of, and we have ACTON, but there is no clear advisory system. It was done away with in 1994. So there is no confidential information that I give out to these people who are interested in the Textile Agreement.

As a textile negotiator and head of the delegation, I give snapshots, I give an update of where we are. So on this particular occasion I was criticized for meeting at Mofteks because we didn't want to leave the building and I did not want to risk the momentum of the talks breaking down.

So I was accused in that article of giving confidential information to American parties that were interested in the agreement that the Chinese might not know about, when I had just been negotiating for three days around the clock with the Chinese. So the Chinese knew what I was giving in those briefings.

To compare some of the little innuendoes that he did was not fair. I knew that those levels were not final. Everybody in the room knew that those levels were not final. I told them at that particular

time that we were ending the end of the negotiation, and to make sure that they understood that this was not the final.

You only do quotas until the end, because you go through the mechanics of the agreement, then the quotas are the very last thing that you deal with. I did not want them to leak things that might raise expectations.

In the article he also talks about, to the dismay of everybody in that room, Bill Houston, who is a member of a very well-respected law firm here in Washington who was in attendance.

Mr. Houston's law firm represents 90 percent of the domestic firms here in the United States, and he also represents foreign, but they do Customs evaluations, they do Customs seminars.

Mr. Houston, during the Reagan and Bush Administrations, he had my previous positions. He was Deputy Assistant Secretary, Chairman of CITA, and he was also the Chief Textile Negotiator. I had no right to ask him to leave. I did not know that he represented Mr. Lau.

Mr. Lau, who supposedly in this article, had some sort of influence on the agreement. Mr. Lau had no influence whatsoever on the agreement. I could not even tell you what Mr. Lau's business connections are. I do know that Mr. Lau was introduced to me several times, and I spoke to Mr. Lau.

Mr. Lau presented himself as a Chinese advisor. Mr. Lau agreed to help try to achieve to get a textile agreement. I sent two messages back to him: we want an agreement that is enforced, and second, we want market access. Without that, we do not have an agreement.

The famous ride in the limousine with Mr. Lau. The Chinese Ministry sent a limousine for me to pick me up to have a meeting with Madam Woo Yi, who was one of the Ministers of Trade, which I think you have met. I have met many of those ministers, Minister Shir, many of them. They sent the limousine, I got in the limousine. So did all the members of my delegation. Mr. Lau got in also.

I am not to tell the Minister of Trade for the Chinese who can get in the car and who cannot. There was no conversation with Mr. Lau about the negotiation. There were other people there present.

So who benefitted from this agreement? The textile and apparel people, and the consumers here in the United States did. Mr. Lau had no influence on this agreement whatsoever. I have no idea about any of this with Mr. Lau's connections or his alleged business, or his donations to anybody. I know nothing about that whatsoever.

Your last question was about the Springs article. I think that is important to address, very quickly. The reporter talks about one particular category in the overall agreement. Now, we achieved what we wanted to. We got cutbacks, but we gained some increases. Overall, we achieved the ability to cut back on China's trade to the United States in order to tell them that they had to enforce their agreement.

What did we do? The particular category that was written up in the Wall Street Journal is an donor, which we call an overhang category. That is a category that, when it is not all used, every negotiation we go into, we try to reduce that category. That category

was put on the table in October and December, before the administration even had their new people in place.

You know who it was proposed by, and in the records we have who it was proposed by? It was proposed by the Chinese, because that was one way of saying across the table to us, do not take this category, but take a category that we are not using. So we cut that category. We cut others, too. We cut wool and we cut yarn.

They are called donor overhang categories because it did not come from the industry, it came from what we do as a government and what we do in our looking at the agreement and seeing how we can cut back to make this agreement enforceable.

So it was on the table. It was offered by the Chinese. In the article it failed to mention that Springs is one supplier of towels, but they are only small. You have two or three other large companies that have a lot larger share.

The truth of the matter is, Springs Industry is one of the oldest industries here in the United States. I have been working with them for as long as I have been doing textile issues, even in this position, the position before it. So there was no connection.

Erskine Bowles has never called my office. He will not even discuss textile issues. His wife has never talked. I work with ATMI and I certainly work with Springs' group, and will always be supportive. I should be, they are part of the industry.

Let me close with saying that we brought back a strong bilateral. Some were not pleased. But nobody is ever pleased with any agreement we do. I will tell you, and I think the committee has seen letters from all over the spectrum, that it is an agreement that was an agreement that was fair, it achieved what we wanted to achieve, and these allegations that somebody had some sort of influence, he had no influence on anything. He set up no meetings. Meetings were set up by the State Department.

So it is a lot of just little details, very fine details of how you deal with an agreement. This agreement is led by me and negotiated by me, but I have a team of people who are on this negotiation. It is Commerce, Treasury, Labor, State. Everybody contributes to it. I do not go off and do an agreement by myself.

Thank you.

The CHAIRMAN. Ms. Hayes, I do have some specific written questions regarding the allegations in these articles, so I would like you to provide written answers under affidavit for inclusion in the record. The reason it is under affidavit is because, on these hearings, they are all under oath and it is just a follow-through on that.

Whatever further action will be taken, we will advise you after we receive those responses.

Ms. HAYES. I will be glad to. Thank you.

[The responses of Ms. Hayes to news articles appear in the appendix.]

The CHAIRMAN. I have one further question that I would like to ask of interest to my State of Delaware.

I am very concerned about the European Union's ban on imports of poultry from the United States. As you know, Europe is a major market for the U.S. poultry industry, worth \$50 million a year.

What is the administration doing to resolve this dispute and ensure full access to the European market for U.S. poultry exports?

Is there any merit to the claim that administration negotiators sacrificed the poultry industry in order to conclude a deal with the EC on mutual recognition of veterinary standards?

Ms. HAYES. Mr. Chairman, it is my understanding that the Department of Agriculture just recently sent a team to France and they have gotten back. We have not gotten the report, but I can assure you that the United States and USTR is monitoring this.

Our office is working very closely with the EU, and we will keep you informed. But there is no way that we would give up for this important sector, this agricultural sector, on behalf of the American poultry workers.

The CHAIRMAN. I cannot stress too much the importance to which I attach this issue.

It is now my privilege to call on our Ranking Member, Senator Moynihan.

Senator MOYNIHAN. Mr. Chairman, just by way of personal witness to what Ambassador Hayes has said about textile negotiations, I was one of the three American negotiators of the Long-Term Cotton Textile Agreement in Geneva in 1962. You were in high school then, I suppose. I grew a lot older in that year, I assure you. The French were difficult, the Japanese were not. Hong Kong was agreeable, and so forth.

But the people who were never satisfied in any respect and who were everywhere were the textile manufacturers and the garment trade unions. There was no hotel space left in Geneva by the time they arrived. So if you found yourself talking to them in taxicabs, I am not surprised.

Ms. HAYES. Thank you, sir. Senator, you seem to get younger, I am getting older.

Senator MOYNIHAN. I'm out of textile negotiations.

But just to say that I think you were in the most recent round of the series that began then and they have always been characterized by a large presence of interested American parties. Those are the facts there. I just wanted to say that. Thank you, Mr. Chairman.

Ms. HAYES. Thank you.

The CHAIRMAN. Thank you.

Senator Grassley.

Senator GRASSLEY. You very thoroughly responded to the question of Senator Roth, and I would not focus my question on what Rita Hayes has done, but maybe in the process. Obviously, you came to the process and it was there before you. Also, in regard to the transparency that we are calling for in the WTO.

So I kind of want to hook a couple of things together here, but maybe give you a suggestion how, in the future, the accusations that could be made could be avoided.

Within the WTO, as I have said, we have argued for greater transparency. Specifically, Ambassador Barshefsky has called upon the WTO to be more transparent in both its procedures and availability of its documents.

Now, you have spent your most recent assignment as Chairman of the Textile Agreement Implementation Committee. This is an organization that is not subject to the Administrative Procedures Act and, as far as I can tell, operates in virtual secrecy.

So on a policy question, but I want to follow it up with also a more personal thing that maybe you can do, in your new job, how will you be able to help the United States argue for more transparency when we have insisted that CITA operate in secret? In light of your involvement with CITA, can you then feel you can argue credibly for transparency with the World Trade Organization?

Then let me suggest before you answer that that the questions that Senator Roth asked, as much not for what you have done but the process that anybody in your position would be involved in, when you have so much secrecy it seems to me that it encourages and fosters the suspicion and the speculation that we get from the press.

Then I would suggest that maybe one of the things that would be to have less secrecy, but one of the things that you could specifically do would be to make public the list of priorities. I know that you have just stated that the one category came from the Chinese, it did not come from us.

But the extent to which the minutes of the meetings would be available, the extent to which the list of priorities would be available, then you would not have this secrecy. We would not have so much secrecy, which encourages this sort of speculation by the press, and what you would probably say is wrong reporting by the press. I think you just said that.

So I just offer that as a suggestion and say, could you make that list available, as an example?

Ms. HAYES. Senator Grassley, thank you. You have followed me through my last confirmation and we have had the opportunity to chat.

I know your concerns about CITA. But CITA was created by executive order in 1972 by President Nixon, then again in 1984 President Reagan increased that executive order to add the combat of transshipment and other issues that CITA needed to deal with.

But I have not been chairman of CITA since 1995. Well, the end of 1995. Because of my last hearing and because, as CITA, you have an executive order, you have a charter, and you chair it, but you have the interagencies that have their input, State, Treasury, Labor, all of those and they bring to CITA and to the table different viewpoints.

The request at my last nomination was that, could we see minutes. I said we would look into that. I have not had one request from anybody to see the minutes of CITA. I went back and had it checked.

But I think, as a member of CITA, I certainly brief through ISACs both constituencies in the domestic industry, then also personally I have briefings at least once a month with everybody concerned with the trade at USTR.

How do I relate that to what I am doing at the WTO? I think I will consistently have the openness and the ability for people to get to me and to have briefings and to let the different sectors know what is going on. I think we have done a good job of that at the USTR. I certainly did it in the China bilateral. It was the first time we ever had joint meetings with everyone there. I had separate, but I did have joint.

So I will continue to take your concerns, and any of the concerns that you have about the agreement or anything like that, I would be glad to sit down with you and to give you whatever you request. Thank you.

The CHAIRMAN. Thank you, Senator Grassley.

Under our early bird rule, Senator D'Amato.

Senator D'AMATO. Thank you, Mr. Chairman.

Ambassador, I am going to ask if you would look into a matter that concerns us greatly that is parochial for those of us in New York, with respect to wool products, wool suits in particular, that we believe are coming in unfairly and in a manner which was never intended. I know that if you would address your attention to that issue, I believe we could get some resolve.

So I do not intend to take the time of the committee at this point, but Senator Moynihan, his office, and mine have been working together on this and I would hope that you would take that opportunity to review it. If we had your personal interest, I think maybe we could have an equitable resolve of that situation.

Ms. HAYES. Thank you, Senator. I am aware of the wool TPL situation with Canada. We have worked very closely with the Canadians and have really put several proposals on the table and continue to push to see if we can't get some relief. Thank you.

Senator D'AMATO. That would be deeply appreciated. We will follow up with you at another point in time.

Ms. HAYES. Thank you.

Senator D'AMATO. Thank you, Mr. Chairman.

The CHAIRMAN. Senator Conrad.

Senator CONRAD. I thank the Chairman, and I thank the witness as well.

We have on the northern border a very serious ongoing problem with unfairly traded Canadian grain coming into this country. Over the past several months there has been a renewed surge of this unfairly traded Canadian grain coming into the United States, and that surge has now breached the limits that were agreed to between the United States and Canada in a tariff rate quota that was negotiated in 1994 and 1995.

Ever since that TRQ expired in 1995, the United States has formally put Canada on notice that we would not accept market disruption in the United States and that we would use as our benchmark that TRQ level that had been previously agreed to.

Unfortunately, this most recent surge has now breached those limits. I believe this is clearly a cause for action. We cannot sit idly by and allow Canada to breach what was an agreement and cause injury to tens of thousands of farmers in the United States.

We cannot undermine our credibility on trade issues by sending a clear public signal that we were not going to accept a breaching of those limits and now permit Canada to breach them and fail to take action.

The Commerce Department, as perhaps you know, has agreed to investigate the possible self-initiation of an antidumping case against Canada. In fact, they are sending a team to my part of the country in the very near future to begin the fact-gathering required. Now, that is a good first step, but I believe the United States should do more.

My question to you is the following. If you are confirmed, will you support continuation of the U.S. policy of a de facto extension of the TRQ by putting Canada on notice that we will not accept market disruption in the United States and by using the TRQ levels previously negotiated as the benchmark? Would that be a policy that you would support?

Ms. HAYES. Senator, instead of giving you a definitive answer today, I certainly would like to look into it. I am familiar with what you are talking about and it is very similar to what both of the Senators from New York are talking about, where there was a particular level established, yet we have found that after it was negotiated that it is still disrupting, and we are trying to find a way to deal with it.

I can certainly give you the commitment that we will not let the market be disrupted and we will see what alternatives we have to go back to the Canadians to see that this is stopped.

Senator CONRAD. Well, I appreciate that. I mean, to me it is just a crystal clear case. We agreed on certain limits in 1994 and 1995. When those limits lapsed, we put Canada on formal notice that we would not accept any breaching of those limits. We would consider that market disruption and we would take action.

Canada in the last three weeks has breached those limits. It is clear. It is unambiguous. Everybody understands it. We are coming up on the anniversary of the time to resubmit the notice to Canada that we will not accept market disruption. I believe it is September 13.

Ms. HAYES. That is right, September 13.

Senator CONRAD. So I am writing today the Trade Representative, Ms. Barshefsky, and asking her formally, as I have already asked her informally, to recommit the United States to that position. I am hopeful that you would support that. I take it from your comments that you believe it would be a breaching of the agreements, if they were to continue.

Ms. HAYES. Yes, sir. I also know that we are very concerned about it at USTR. She has brought it up in meetings before. Now we have a new agricultural ambassador who has just recently gone through his confirmation process and is very, very aware of it, and we have a team that is looking into it and pursuing it. So, it is certainly a top priority.

Senator CONRAD. I appreciate that. This is causing severe economic injury because we get a flood time of these unfairly traded imports coming into the United States that is suppressing prices at a critical time. So I appreciate very much that answer.

Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Conrad.

Senator Breaux.

Senator BREAUX. Thank you very much, Mr. Chairman.

I thank the witness for being here and responding to the questions. I look forward to working with her in her new capacity at the WTO.

I have read the article in Newsweek that Chairman Roth questioned you about. Quite frankly, I mean, I think it is a whole lot to do about nothing. I used to go to all these trade meetings, and when I was in the House I got tired of doing it because I always

felt that we had so many people over there arguing, and about a third of the lobbyists had one position, a third of the lobbyists had another position, and another third of the lobbyists over there were looking for clients. [Laughter.]

I mean, I have been to these briefings. When you are giving a status report of the negotiations you just do not ask people to come to the briefings that agree with you. The people that disagree with the U.S. negotiations positions also sit in the briefings and the briefings tell them what we are doing, where we are going, and what we hope to accomplish. That is what the briefings are all for.

You hardly can go in and say, all right, do you agree with me? You can come to the briefing. If you do not agree with me, you cannot come to the briefing. I mean, that is why I quit going to them. I just wish you the very best in that area.

But I think there are some important subject matters that are relevant and are important about the role of the United States as ambassador to the WTO. I am concerned about dispute settlement.

I mean, these organizations are only as good as the ability to resolve disputes between our country and other countries. If we do not have a strong dispute settlement in place that we aggressively pursue, the agreements are not worth anything at all.

I would like you to comment on, how do you look at the dispute resolution portions of the WTO, how do you envision utilizing those dispute procedures to protect the U.S. interests?

One area you may comment on, if you have any information on it, is I think more and more countries now try and pressure their governments to enact environmental types of procedures in their countries that are contrary to the trade agreements and say, well, if you do not catch your products the same way we do, we are not going to let you export your products to our country. That is happening in a number of areas right now.

I guess my general question to you is to give us a little discussion on how you view the dispute settlement provisions in WTO, how would you go about trying to utilize those procedures in order to protect U.S. interests?

Ms. HAYES. Thank you, Senator. As I said in my opening statement, more and more we bring in cases. They have increased from 1996 to 1997. We are using the World Trade Organization dispute mechanism to let countries know that if they do not meet the requirements of the WTO, if we bring these cases—and we have been very successful. Some we have lost, but we have been very successful on a good many cases.

Take some of the cases recently with the EU. The appellate body has come back with a very favorable decision on the bananas, and also on the beef hormone decision. So the question was asked to me recently, well, what happens if they do not live up to the appellate decision? Well, we have recourse with that.

That is what you do when you get into litigation and you use the dispute settlement. If you take these cases before the panel, you get decisions. Then you expect the countries that participate in this dispute settlement to live up to their bargain of being a member of the WTO.

I can give you a personal example of two cases that we had to deal with in the sector that I am in right now. There were two

WTO cases in the textile and apparel sector. Some might say that we lost the cases. We did not lose those cases.

The dispute settlement asked us to lift the restraint, which we did, but we won on the principles of that case. The dispute settlement upheld the program and said we could still implement what we were doing, we just needed to add additional information. That is what the dispute settlement is there for.

Senator BREAUX. I appreciate the answer. I think that the number of industries that support your confirmation, both in agriculture and manufacturers and textile industries that have expressed public support for your confirmation, I think, is indicative of the job that we expect you to do.

Always remember, you are representing the United States. I think that you will continue, obviously, to be very strong in that regard and never to get caught up in the flim-flam of international organizations.

Be tough and do not hesitate to not bring back agreements if they are not good agreements. Just say it out front publicly and say we are not going to accept this. The Senate would never accept it, Congress will not accept it. Just be very, very tough in that position.

Ms. HAYES. Thank you, sir.

Senator BREAUX. Thank you very much.

The CHAIRMAN. Senator Rockefeller.

Senator ROCKEFELLER. Thank you, Mr. Chairman.

I just have a single question, and I may submit some others, but for now, anyway.

Some time ago, Senator Roth and Senator Moynihan submitted a bill which would change the terminology Most Favored Nation to Normal Trade Relations, which is, in fact, what Most Favored Nation really means.

There is really, I do not think, that much opposition, but the opposition that comes to that comes from those who have it in for China, particularly China and MFN. I was the co-sponsor of that bill and I strongly support it.

I would like to hear your definition, if you agree with this bill, as to why you think it is important.

Ms. HAYES. Senator, whether we are talking about permanent MFN, whether we are talking about fast-track, or any of these other issues, I have consistently said as a negotiator and someone who knows how much trade means to everyone, that it is better to be at the table, to have them participate.

When you look at China you want to have normal trading relationships with China, but there are some people that, of course, do not want China to have permanent MFN. I think it is very important that we do.

Senator ROCKEFELLER. Thank you.

Thank you, Mr. Chairman.

The CHAIRMAN. Senator Gramm.

Senator GRAMM. Thank you, Mr. Chairman.

I have got a couple of questions today. The first question has to do with your statement about your objective in representing textile manufacturers, textile workers, and consumers.

Now, as I understand, maybe the numbers are wrong, I have just seen the numbers that have been used in various articles that have questioned these negotiations. I am a numbers person myself, or was in my old life, so I know people sometimes get them messed up.

But overall, according to the Wall Street Journal, this negotiation that you successfully conducted with the Chinese reduced their textile quotas by 2.6 percent and reduced cotton towel quotas by 31 percent; is that right?

Ms. HAYES. Right.

Senator GRAMM. Now, what I do not understand, I understand how reducing quotas helps textile manufacturers and helps textile workers, but I do not understand how it helps textile consumers. I guess in terms of stability of market, in terms of fairness, one can argue to be representing both. But I do not see how this agreement could in any way be portrayed as being a representation of American consumers.

I understand your job and I understand you are not necessarily setting these policies. What I am trying to do is just simply understand in your mind how it is you are representing consumers.

Ms. HAYES. Well, Senator, that is a very good question. The point I tried to make was, as Chief Textile Negotiator, I have an executive order to follow. There was a cutback of overall market access to the United States by China by 2.6 percent.

The reason for that is something I think you would agree with. We do not want to have agreements with countries who do not abide by the agreement. There is no reason for us to have an agreement with any country if they are not going to live up to the agreement. On this particular agreement, they were not abiding by the agreement at all. I said from the very beginning that we had to enforce the agreement.

Now, the answer to your question, did this affect the consumers, I am not denying the consumers the right to anything, but I am trying, and it is my responsibility, and it is by statute that you give me that responsibility, to enforce these agreements.

Senator GRAMM. Well, now let me ask you a question. The 2.6 percent reduction, was that a reduction from the previous quotas or was that a reduction from the actual importation of Chinese goods?

See, that is what I did not understand. At least the articles read as if what we had done is we had entered into the negotiations and that the final outcome had been a 2.6 percent reduction in quotas that China had had relative to what they have in the new agreement, and then the 31 percent reduction in cotton towels.

Ms. HAYES. The 31 percent cut in cotton towels was part of the 2.6 percent that came into this country. The 2.6 percent was the overall market access that China has to this country, so it was the overall cutback.

As I said earlier, there were some increases and some quotas that some retailers and importers wanted, and there were some decreases that some of the domestic industry wanted. So it was a balance.

One of the things that was suggested, and one of the things that I said that I kept from happening, in previous textile negotiations

there were unilaterals slapped across the board on everything at 35 percent, and trade completely stopped.

So, yes, there was a 2.6 reduction in the overall trade from China to the United States, but that was a way of us saying, we want your trade. China has the United States' largest market. They have the largest share of our market, other than the free trade agreements that we have.

So it was my responsibility to say, if you have got our market you have to do two things. You have to enforce this agreement, and second, we want your agreement. We want your market. So that is what we did, we got a market access agreement that was hailed by everyone that had never been gotten before.

Senator GRAMM. Let me ask one final question. The article in Newsweek raises the question about the briefing that you had in the conference room of the Chinese Trade Minister where you were briefing representatives of American interests and they raised two questions, number one, doing a briefing in that facility, but second, the obvious presence of a lobbyist who was representing a client who was himself a representative of the Chinese Government.

Now, what they raised as their question was a statement that apparently they claim you made about, we are close to completing the negotiation, you were giving people an update, but that you did not want them to go out and talk about where you were in the negotiations.

Newsweek raises, if their facts are right, I think an obvious question. That is, if this was, in fact, sensitive data, why did no one ask the representative of the advisor to the Chinese Government to leave the room when you were giving the briefing?

Ms. HAYES. There was not, Senator, an advisor to the Chinese Government in the room. There was no sensitive, confidential information given out.

As I said in my earlier statement, we had been negotiating 3 days around the clock. Many interested parties of the industry were getting ready to return to the United States. We were getting towards the end of an agreement.

So what I did, was I asked them to come to Mofteks. And when we had these briefings, even when we have them outside of Mofteks, they are in the lobby of a hotel. When you give these briefings, you are only giving a snapshot. You are only saying what you have just finished negotiating with the Chinese. So why would that be secretive to the Chinese?

Senator GRAMM. Well, why did you ask people not to talk about it if it was not secret?

Ms. HAYES. Because I did not want the press to print or for interested people in that group to go back and tell their CEOs or anyone in the room that this was the final agreement.

I was asked directly in that briefing if this was the final package. It had many in the notes, and it has it in the notes that I have. I said, this is not the final package. I am just telling you where we are at this particular time.

Senator GRAMM. Thank you, Mr. Chairman.

Senator MOYNIHAN. Mr. Chairman, if I might submit a question in writing, that would be fine for me. Thank you.

The CHAIRMAN. I believe that completes the questioning for today, Ms. Hayes. Thank you for being here. We will submit the questions as rapidly as possible. Of course, I would hope that you would respond quickly because we want to move as expeditiously as we can with this nomination.

Thank you very much for being here.

Ms. HAYES. Thank you, Mr. Chairman. Thank you for your patience, and your committee also, too. Thank you.

The CHAIRMAN. Our next nominee is Kenneth Apfel, who is, of course, a familiar face to this committee. For almost a decade he has staffed Finance Committee issues for our former colleague, Bill Bradley. More recently he has been responsible for Social Security, welfare, and education issues at OMB.

Mr. Apfel, it is a pleasure to welcome you here again.

Mr. APFEL. It is a pleasure to be here, sir.

The CHAIRMAN. Are there any members of your family here with you today?

Mr. APFEL. Yes, there are, Mr. Chairman. By order of seniority, if I may.

The CHAIRMAN. Please proceed.

Senator MOYNIHAN. There is a committee man, by golly.

The CHAIRMAN. That is right. Well put.

Mr. APFEL. I first would like to introduce my mother-in-law, Katryna Jacobsen.

The CHAIRMAN. It is a pleasure to welcome you.

Mr. APFEL. My wife, Caroline Hadley, and my two sons, Derek and Dana.

The CHAIRMAN. I know this is a very proud day for your family and we are pleased to have you before us.

I would now like to swear you in. Would you please rise and raise your right hand.

[Whereupon, Kenneth S. Apfel was duly sworn.]

The CHAIRMAN. Mr. Apfel, I would ask you now to proceed with your statement. Your full statement will be included as read.

STATEMENT OF KENNETH S. APFEL, TO BE COMMISSIONER OF SOCIAL SECURITY

Mr. APFEL. Thank you. Mr. Chairman and members of the committee, I am honored to be the President's nominee for the critically important position of Commissioner of the newly-independent Social Security Administration. I appear before you today to seek your support for my nomination, and to discuss the key issues facing the Social Security program.

It is hard to overstate the importance of Social Security in improving the lives of Americans. Social Security has been the most successful government program in our Nation's history. It has made a decisive difference in providing financial security for older Americans.

Social Security is also much more than retirement. Approximately 6 million disabled Americans and their family members, and 7 million surviving family members of deceased workers receive monthly Social Security benefits. Social Security truly has become America's family protection plan.

But Social Security is not immutable to change. As Wilbur Cohen said, "Each generation should be free to remake and remold it to its needs and to its liking." People need to realize that Social Security is and always has been an evolving program.

In nearly each decade since its creation, major Social Security changes have been made in response to the needs of the time: Disability Insurance in the 1950's, Medicare in the 1960's, COLAs in the 1970's, and numerous changes in the 1980's as a result of the Greenspan Commission's work.

The changes made over the past decades reflect the Nation's changing needs, and now further changes are needed if we are to meet the demographic challenges that face this Nation in the 21st century.

The first and most critical challenge, of course, is to address the long-term solvency of the Social Security program while ensuring that current and future generations of American citizens continue to be provided with a floor of protection. It is a task worthy of our very best efforts.

The very good news is that Americans are living longer and healthier lives. But increased life expectancy, coupled with the aging of the baby boom generation, will place great strains on America's retirement system.

The Social Security trust funds will be exhausted in 30 years. At that point, revenues coming into the program will only account for approximately 75 percent of the expected benefit payments. Clearly, tough choices must be made, and the sooner the better. We must act soon, not because we are in a crisis, but because if we act wisely we can prevent a crisis from ever occurring.

The American people deserve early action to be able to plan for changes, and Americans of all ages need to have confidence that this important program will be there for them.

In all candor, Mr. Chairman, critical discussions about the future of Social Security need to take place not only in Congressional hearing rooms, but also in family living rooms across America.

As Commissioner, one of my roles will be to help Americans understand Social Security today so that they will be prepared to help make the tough choices to ensure the program will be there for them tomorrow.

I worked for Senator Bradley and with the Senate Finance Committee in 1983 when the historic Social Security Reform legislation was enacted. I spent many hours in this room.

That legislation was an example of bipartisan cooperation, goodwill, and wisdom. This administration and this Congress have shown that they are capable of coming together in a bipartisan way to fashion solutions important to this Nation.

If confirmed, I give you my commitment that the Social Security Administration will be responsive to the needs of this committee and that I will personally work closely with the members of this committee in a bipartisan way on this important endeavor.

While the long-range solvency of the program is the most critical issue facing Social Security, it is by no means the only issue. Social Security and SSI Disability programs have grown significantly. With the aging of the baby boom generation, we can expect still

further increases in the number of disability claims and the agency's workloads.

There are inherent administrative difficulties involved in judging health and work capacities of disability claimants. The agency has already undertaken efforts in the past few years to redesign and to modernize this process.

I believe these efforts are a positive first step, but they are not sufficient to resolve all problems. I am personally committed to finding ways to better manage the system, to fairly review the eligibility of those on the rolls, and to return a greater number of individuals with disabilities to productive employment.

Furthermore, I believe that the Nation has a responsibility to provide children with disabilities, and their families, with the resources needed to prepare themselves for full participation in society.

Toward that end, if confirmed, one of my first priorities will be to carefully review the Social Security Administration's implementation of the eligibility changes that were adopted last year to determine if the intent is being realized and if the regulations are being applied fairly.

In addition to the issues of long-range solvency and disability is the management challenge, how to provide effective leadership for the Social Security Administration.

The agency's independent agency status means that it now enjoys a higher profile than it ever did during its many years within the Department of Health and Human Services.

Social Security touches the lives of nearly every American. For many people, the agency and its employees represent their closest contact with the Federal Government. More than 25 million Americans walk into SSA offices each year. More than 60 million call the 800 number. Within 3 to 4 years, over 100 million people will be receiving annual statements of their benefits.

With the aging of the baby boom generation, these numbers will increase dramatically. In order to improve customer service, SSA will have to rely on new technology to meet the demands of the future. The agency will need leadership on these challenges and, if confirmed, I intend to provide it.

In conclusion, Mr. Chairman, Senator Moynihan, and other members of the committee, let me say that I was deeply honored to be nominated by the President to guide Social Security into the 21st century. I appear before you today with humility to the task before us, but with the firm conviction that I am ready for that challenge.

Mr. Chairman, I have spent my entire life preparing for this moment. My educational background is in social policy, rehabilitation, and public management. I know the complexities of developing tough public policies from the years I spent working with this committee, and my years in the administration. I gained strong management and executive leadership skills during my tenures at HHS and at OMB.

But perhaps more significant, my wife and I are both baby boomers, with aging parents and young children. I know and understand the importance of Social Security to the fabric of our society.

Henry David Thoreau once wrote that, "It is not enough to be busy, the question is, What are you busy about?" I thought long and hard about that quote after being nominated by the President for this position.

For me there can be no higher calling and no more significant life's work than to guide the Social Security Administration into the next millennium and to help ensure economic security for future generations.

I am ready and eager to begin that work, and I ask each of you today for your support for my nomination. Thank you. I would be happy to answer any questions that you have.

[The prepared statement of Mr. Apfel appears in the appendix.]

Senator MOYNIHAN. Sir, there is a vote on. Chairman Roth has run off to vote and asked if I might ask a question. I think my colleagues might want to as well.

Senator ROCKEFELLER. Mr. Chairman, can I just ask a question of you. After the vote, and I think, in fact, there will be several of them, I cannot come back, which I am very upset about. I just want to say that I am particularly sorry to miss Nancy-Ann Min DeParle and Olivia Golden. I have strong feelings about both, but I have very, very strong feelings, positively, about Nancy-Ann Min DeParle.

Senator MOYNIHAN. I understand.

Senator ROCKEFELLER. I will have questions to submit.

Senator MOYNIHAN. That is fine.

We do, indeed welcome you. You know what support you will have in this committee. I have a letter which I would ask the Chairman to put in the record from Bill Bradley, just congratulating you and speaking so highly of you, as you would imagine him to do.

[The letter follows:]

OFFICE OF SENATOR BILL BRADLEY
SEPTEMBER 9, 1997

Dear Senators Moynihan and Roth:

I am writing to indicate my strong support for the nomination of Ken Apfel to serve as Commissioner of the Social Security Administration. I have known Ken for over 15 years and recommend him both personally and professionally.

Ken worked on my Senate staff from 1982 to 1989 as the chief aide for health & education. He then served as my Legislative Director from 1989 to 1993. Hard work, insightful analysis and a commitment to sound public policy characterized his time in my office.

President Clinton recognized Ken's talent and nominated him as Assistant Secretary for Management and Budget at the United States Department of Health and Human Services in 1993. He was subsequently confirmed by the Senate and did an excellent job in this challenging position.

Ken will be an outstanding Commissioner of the Social Security Administration. His background prepares him for the challenges facing Social Security and I am confident that if confirmed, Ken will strengthen Social Security and ensure that it is sound as we head into a new century.

I highly recommend Ken to you on both a personal and professional level. Thank you for your consideration of this recommendation.

Please contact me if I can provide further information.

Best regards.

Sincerely,

BILL BRADLEY

Senator MOYNIHAN. I would make the point that I think you would perhaps agree with, but I do not ask you to say a word.

You speak about the newly-independent Social Security Administration. Sir, that law was passed three years ago. You are the first commissioner to come before us, in effect. It is inexplicable, the marginalization of Social Security in the affairs of contemporary American administrations.

I introduced the legislation in October of 1993. At that time, under the Congressional Directory listings, you turn to the Department of Health and Human Services. You had to read through 22 pages before you reached the Social Security Administration; some 800 assistant secretaries, deputies, and this and that, before you got to the single most important domestic program in the Federal Government. It had been marginalized, it had been sent out to Baltimore.

When the bill became law it took the administration 6 months to nominate a person, by which time this committee was not prepared to confirm. That person stayed on under a provision in the statute which we did keep that said, in the absence of a commissioner of the new agency, the old arrangement would be in place. Even then, that job has been vacant for six months, and you have just arrived. Thank goodness you are arrived, sir. I do not expect you to say anything, but how could it have been three years?

As you say, we are on the verge of real decisions. Last year, we repealed the Title 4A of the Social Security Act, which was the provision for dependent children, something that would have been unthinkable years ago, happened.

The proposal is still very much around that we begin to replace Social Security. As you know, the Advisory Commission that was created two years ago came in split three ways, but with a majority for doing away with the present arrangement. You have not to 2030, sir, you have to 2012. That is when the cash flow ceases, as you know. You are agreeing.

Are you going to get some support in the administration for doing the things that have to be done, Medicare as well as retirement benefits?

Mr. APFEL. Senator, the legislation for the independent agency was a centrally important piece of legislation. It does change the dynamic. All I would ask is for you, I hope, three years from now to look back on the role of the Social Security Administration, both within this administration and with this body. We now have, being separated from Health and Human Services, new responsibilities.

Second, the policy debate that we are about to enter is a major one. It is, in my belief, the most fundamental debate we will have in the next several years. The future of this program and of retirement security, disability, and survivor's benefits is central to the Nation.

Senator MOYNIHAN. But we have to face up to some things. Last July, this committee unanimously reported to the floor a proposal to raise the eligibility age for Medicare to be in synchronization with Social Security and to make a larger contribution to Part B, a wholly publicly financed health care provision.

No support was forthcoming from the administration. The standard organized Washington interests said do not do it, so it was not done. Ten more years of that and there will not be a Social Security system. You can say what you want, please.

Mr. APFEL. I think it would be a major mistake for the country if, 10 years from now, efforts have not been made to reform the Social Security system. This is an issue that we need to act on quickly for two or three different reasons.

One, Social Security receives enormous support across all generations, but there is a lack of—

Senator MOYNIHAN. But sir, a majority of non-retired adults do not think they will get Social Security.

Mr. APFEL. That is right.

Senator MOYNIHAN. And if they do not think they will get it, they will not miss it when it is taken away.

Mr. APFEL. That is right. There is a great degree of uncertainty about the future. The way to eliminate that uncertainty is to fix the problem, and to fix the problem soon.

One, we need to have a major public debate in this Nation about the choices that we have to confront; two, we need to take those actions quickly and convincingly; and three, we need to do it in time so that people can plan for any changes that have to be made in their lives.

Senator MOYNIHAN. I have been told I really have to leave for a moment. We will all be back.

But can I ask you one thing about, you said first the debate. Will you be part of that debate?

Mr. APFEL. Oh, Senator, I will be part of the debate.

Senator MOYNIHAN. That is all I wanted to hear.

The committee will stand in recess until we return from our vote. [Whereupon, at 11:20 a.m., the hearing was recessed to reconvene at 11:26 a.m.]

AFTER RECESS

Senator GRASSLEY. Senator Roth's staff has asked me if I would convene the meeting, and I would like to do that.

I would now ask of Mr. Apfel the standard questions that we ask all nominees that come before this committee.

First, is there anything that you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated?

Mr. APFEL. No.

Senator GRASSLEY. Second, do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office for which you have been nominated?

Mr. APFEL. No.

Senator GRASSLEY. And third, do you agree without reservation to respond to any reasonable summons to appear and testify before any duly-constituted committee of Congress, if you are confirmed?

Mr. APFEL. I will, yes.

Senator GRASSLEY. The Chair recognizes Senator Gramm.

Senator GRAMM. Thank you.

Ken, first of all, let me congratulate you. Someone who is supported by his mother-in-law is a candidate that has great support, and I am always impressed when somebody's mother-in-law is for them.

We had the opportunity to talk yesterday, and I raised an issue which we are in agreement on, but I wanted to do it publicly. Obviously, the big debate in this country for the next 25 years is going to be the long-term future of Social Security and Medicare.

There is a growing body of thought that believes that we need to move toward individual ownership of retirement and security in retirement by basically moving from a system which is a transfer payment from one generation to another to a system where workers would be allowed, in a mandatory, supervised program, to build up assets that they would own and they would generate security from.

There is research going on all over the country by some of the best minds in the country on this issue, but all of this research is hampered by an absence of data.

As we discussed, in trying to bring both ends of the political spectrum together in this debate, one of the things that we have to do is to have a body of knowledge that is available so that both sides of the debate are constrained, those who say leave everything alone by the cold reality of the financial problem you have outlined, those who say change it dramatically by the very large transition costs that are involved.

So I wanted to ask you if you would be willing, to the maximum extent possible, to make the great reservoir of data at the Social Security Administration available to the general public so that we can encourage research in our research institutions, whether they be the Heritage Foundation, the Progressive Policy Institute, or in our academic institutions.

We have had some problem in the past with various agencies about data. We have had a chance to discuss this in private, but I did want to bring it up here today and I wanted to get your public commitment that, to the maximum extent possible, protecting the privacy of the individual retiree, that you will try to move this vast reservoir of data into the public research domain so that we can get the best minds in the country thinking about it so we will have somebody to parrot when we open our mouths.

Mr. APFEL. I agree with that, and I will, Senator, to the extent practicable. Also, you brought up the issue of privacy. It is centrally important that any data that go out protect privacy. Social Security information is very private information, so we need to be very careful about protecting individuals' employment records, et cetera.

We should take further steps to assure that this data is available. I will be very candid. I do not know the extent to which data has not been available that we need to look at, but I will do everything under my power to have an open debate and to have as much information available to the public as at all possible.

It seems to me we are starting a major debate in this country, having good information and the implications of various options. It is one of the central things that Social Security can provide, and I hope to do that.

Senator GRAMM. Great. Well, I am very pleased by that statement, and Ken, I look forward to working with you in this debate.

Thank you very much, Mr. Chairman.

The CHAIRMAN. Mr. Apfel, I am sorry, but you know better than most the problems of trying to run a hearing.

In the morning paper in the Washington Post there is a statement about, "Clinton Vows Fight for Campaign Finance Law," but much of it is dealing with Social Security. He says on Social Security, "It is wrong to let people pay into the fund for a benefit they will never receive. There are problems that revolve around demographic changes in our society. We owe it to you not to have to face this burden. That is, the administration will fulfill our responsibilities incurred by costs of Social Security."

I have several questions, and perhaps these have already been touched upon. But can you summarize the administration's view on the need to reform Social Security and any plans or time line for presenting reform for the Congress?

Second, do you expect the administration to propose only conventional fixes, or be more ambitious and allow individuals to own and invest some or all of their payroll tax?

Third, how might this committee work most effectively with the administration on Social Security reform?

Mr. APFEL. Senator, the President began yesterday to reiterate his deep desire to see this issue be resolved during his second term.

There has not yet been in the White House a formal or substantive plan developed to reform Social Security. Discussions are just beginning. Most of the push has been to establish an appropriate process through which we can work with Congress on a bipartisan basis to move this debate forward.

If we would look at the number of big debates we have had over the course of the last 20 years, when we have entered into an agreed-to process, usually those results are significantly better.

I talked to Erskine Bowles just last week and I know that he has started discussions with the leadership, including Senator Lott who is on this committee, about what to do, and how to move forward on this on a bipartisan basis. It is the very, very first steps of that process. We don't know what process we will use to move forward on yet.

Once we determine with the Congress a process, we are in a much better position then to determine whether there be a plan articulated, whether it instead is a committee or a commission that is established, and a time line would then follow from that process.

So, one, we are at the very first stages of this process. Two, after a process is established we will know more on the time line. The discussion internally on options is really just starting and it is premature to be able to make any judgments at all about where that is going. So step one is working with the committee, working with the leadership on a process.

The CHAIRMAN. On the question of process, one concern of mine is that to have the very best nonpartisan efforts for Social Security, that technical and actuarial staff be available to this committee, regardless of where we may be respectively on policy initiatives.

I have to agree with you that really to do anything significant it is going to have to be on a bipartisan basis. I would hope that would be the approach, as that is the only way I think anything significant will be accomplished.

So can the committee count on the availability of the services of the actuary and other technical personnel on reform matters, regardless of politics?

Mr. APFEL. Yes, sir. As I said in my opening statement, I intend to work closely, and have the Social Security Administration work closely, with both sides of the aisle. Information is centrally important in this debate. We have got to have good, solid information that we share with everyone for us to move forward, and I commit to do that, sir.

The CHAIRMAN. Let me ask one question on Social Security Disability programs. Over the past 5 years, despite a good economy, we have seen substantial growth in the disability rolls. Also, many advocates for people with disabilities believe the programs do not address the many barriers to working faced by the disabled.

Can you give us a brief overview of the significant issues facing the Disability program, what factors you believe are responsible for program growth over the past 5 years, and to what extent do you believe providing rehabilitation services is an appropriate program goal?

The GAO has issued several reports skeptical of the effectiveness of return-to-work services. Would it be better to provide rehabilitation services when someone first applies for benefits rather than after they have been awarded benefits?

Mr. APFEL. Well, Senator, the growth in the disability rolls is due to a number of factors: including changes in law and from court cases such as the *Zebly* decision, which was an important court case which found that many disabled children were not receiving services who should have received services. There was growth that was due to those court cases.

Also, the aging of the population. As people age, there is a higher incidence of disability. So if we look at the future, in the next 10 and 15 years, as the baby boomers get up into their 50's and early 60's, you are going to see an increase in the incidence of disability there, too.

In addition, Senator, the number of women in the labor force has gone up significantly, as you know, in the last 30 years. That means that those workers are now eligible for Social Security, and when they become disabled they can go on the disability rolls.

Lastly, people are going on the disability rolls at younger ages. That means that they are staying on disability for longer periods of time, so fewer people are leaving the disability rolls and are on the rolls for longer periods of time. So, there are a whole series of issues here that have led to an increase.

It seems to me that there are four things that we have got to understand to move from here. One, we have to do a much better job at understanding the prevalence of disability in our society and I think we have got to do a fair amount of pure, straight-out research on what is going on here relative to other countries.

Two, once people come on the disability rolls we have got to do good reviews of whether people are still disabled. This is something that we worked with this committee on 2 years ago in a major way, to increase the number of disability reviews, and we are now going to be doubling and tripling them over the next few years. We have

got to review more frequently people who are on the rolls to determine whether they should stay on the rolls.

Three, and this really is central because it gets to the issue that you raised about rehabilitation. Right now, we spend too much of our time looking at a person's disabilities and not enough at their abilities. We have got to focus more on returning people to work, and put more focus on what capabilities they still have that we can build on.

You specifically mentioned whether, at an earlier stage, we could intervene for people with disabilities to provide rehabilitation services. Under current law, we cannot. I think you are aware of this, Senator. Until a person is on the rolls, formally on the rolls and not just applying for benefits, we cannot provide rehabilitation services.

The demonstration authority that is now pending before this body, one of the provisions in the Administration's proposal, would enable the Social Security Administration to conduct a demonstration pilot which would provide rehabilitation services to people while they are applicants, before they are determined eligible.

I think we need some serious research and some serious demonstrations to determine whether this will help us move people off the rolls and into work.

The CHAIRMAN. Thank you, Mr. Apfel.

Senator Moynihan.

Senator MOYNIHAN. Yes. Thank you, Mr. Chairman. Eunice Kennedy Shriver, as you know, is very much concerned about disability issues and has asked that a number of questions be addressed to Mr. Apfel in writing, and I will submit them, if I may do, sir.

The CHAIRMAN. Written questions can be provided at any time, up to 7:00 p.m.

Are there any further questions?

Senator GRASSLEY. I have not had any questions.

The CHAIRMAN. All right. Well, that was deliberate.

Senator Grassley.

Senator GRASSLEY. In just 13 years we are going to see the greatest graying of America that we have ever seen in the history of our country as baby boomers begin to retire and become eligible for Social Security and Medicare.

You, Mr. Apfel for Social Security, and our next witness, Ms. DeParle for HCFA, are going to be playing very major rolls in the challenges that we face. The retirement of baby boomers is going to require very dramatic improvement in how the Social Security Administration and how HCFA administers these critical programs. I think it is going to take an extraordinary response from these agencies to meet the challenges.

We will be confronting a 30 percent increase in the number of Social Security recipients, and the insolvency of Medicare is still pending. We recently learned that HCFA is spending \$23 billion a year it should not be spending, and we have reason to believe that the year 2000 computer glitch will not be solved in time, and that just names a few. So it seems to me that bureaucratic business as usual will not work.

Many of us in Congress feel that the recent history is not an encouraging sign that the job will get done, so obviously we are look-

ing to you two nominees to answer some crucial questions, and they basically would revolve around what you are going to do to prepare the programs for the current crunch.

Now, I would have asked as my first question what Mr. Moy-nihan and Senator Roth have already pointed out, and that is what you are going to do about the long-term solutions of Social Security. I am glad to see that you plan to play a very major role in that issue.

So let me then go on to another question that has not been asked. The Social Security Advisory Board created by the Act of 1994 is to advise the commissioner, the President, and the Congress on policy changes for programs at the Social Security Administration.

Are you aware of the fact that the meetings of the Advisory Board are not open to the public?

Mr. APFEL. Yes, sir, I am.

Senator GRASSLEY. All right.

Mr. APFEL. You mentioned this to me during our courtesy visit.

Senator GRASSLEY. Do you see any reason that the board meetings that are funded by the American taxpayer should not be open to the public, as a matter of course?

Mr. APFEL. No, sir, I do not. I think that sunshine is almost always good.

Senator GRASSLEY. All right. Am I correct that only the chairman of the Advisory Board has the authority to open meetings to the public?

Mr. APFEL. I believe that is correct, Senator. I do not think that the Social Security Commissioner has the ability to open the meetings to the public.

Senator GRASSLEY. Looking to the delivery of services in the 21st century, as I have said, we have a problem getting down the road here. The work load of your agency will increase substantially, probably in an era of diminished resources.

In addition, customer expectations are also changing. Your agency will likely need to restructure how it does business to cost effectively meet changing customer preferences and high demands of service. For example, just relying on less paper and more technology. At this time do you have any plans or ideas about how to restructure or reorganize the agency to accommodate these increasing demands and changing preferences?

Mr. APFEL. Well, Senator, I think there are two or three big challenges for Social Security. One is the major policy debate, and we have discussed that. The management challenge is a major one. If we look at the increase in the number of persons receiving benefits, the projection is nearly a 50 percent increase in the next 20 or so years.

There has got to be focus on being able to deal with that major workload issue in a way that is not just a pure cost driver. We have got to find a continued way to rely on technology and to stay even with technology to provide services to the public in a more efficient manner.

If we go back to the 800 number, there was some resistance to the establishment of an 800 number, which was major new technology, several years ago because it would move away from the

local offices. We now get 60 million calls a year to that 800 number. That is an important function. What we have got to be able to do is implement more technological advancements in the years ahead.

One of the things that I would like to be able to do as Commissioner would be to start a longer range planning process. The Government Performance and Results Act requirements authored by Senator Roth, is centrally important to accountability in a planning process. We need to have a planning process for 2010 and 2020 to deal with the long-range issues. If we do not start thinking now about the technology changes that we are going to need, we are going to be overwhelmed in the long run, given the number of beneficiaries that we are discussing.

So, I think we need an internal GPRA-like planning process. I do not know whether it should be part of the strategic plan itself or separate, frankly. I do not know that yet. But it is looking at the long-range work-load implications and ways to use technology. Technology, I think, is one of the key drivers here, both in terms of accountability and in terms of reducing overpayments and fraud.

We have got to be able to use technology to link up databases with, say, state workmen's compensation systems so that we can determine whether people are receiving both benefits. Linked up, clearly, with the IRS. There are some databases now that are working here.

Automation and technology is going to be one of the major keys to these improvements for the course of the next 15 years. What I would like to do is establish that long-term process to get that moving.

Senator GRASSLEY. Thank you, Mr. Chairman.

The CHAIRMAN. Thank you, Senator Grassley.

Senator Conrad.

Senator CONRAD. Thank you, Mr. Chairman. Thank Mr. Apfel for being here. I very much appreciated the meeting we had in my office in preparation for this hearing today.

I would like to turn your attention to the question of SSI kids. You may recall that Senator Chafee and I had worked to protect SSI kids in the welfare reform legislation, and we had worked out an agreement that was memorialized in an exchange on the floor with Majority Leader Bob Dole.

Unfortunately, that agreement that was worked out was altered in conference committee by language that was added by staff. Unfortunately, that happens all too frequently around here. The staff, who are not elected by anybody, alter legislative outcomes by language they inject. That happened in this case.

That has resulted in 120,000 kids being denied eligibility for SSI. I think everyone acknowledges there needed to be reform with respect to the designations of SSI eligibility, and that was part of the agreement Senator Chafee and I worked out.

Unfortunately, what we have been left with goes well beyond responsible reform. We are seeing children denied eligibility in cases that I think are just unconscionable.

In New York, for example, a 13-year-old girl with a history of severe and debilitating psychotic disorders was terminated. The girl is on extremely strong anti-psychotic medications and had been in

an inpatient mental hospital for a week shortly before she was terminated from SSI. In North Carolina, an 8-year-old boy who was confined to a wheelchair and who has an IQ of 45 was terminated.

I would ask you, if you are confirmed, will you undertake to immediately suspend benefit terminations in order to give SSI employees guidance to ensure that no more children are wrongfully terminated and review those cases that have already been terminated in order to ensure that those wrongfully terminated are returned to eligibility?

Mr. APFEL. Senator, the two cases that you outlined, based on the knowledge that I have of the disability law, should not have been terminated and should have been continued.

One of my concerns here is the administration, as I said in my statement, and the implementation of the SSI law. There are State-by-State variances, and I cannot say that I fully understand why they are as varying as they are. There are cases that have come to my attention that have been faxed to me of children who have been terminated, and one of the areas of biggest concern is the mentally retarded.

As I sit here, what I do not know, Senator, is whether these are individual problem cases, because when you review 200,000 cases over a fairly short period of time, there will be mistakes. What I do not know is whether these are mistakes or whether there are structural oversight management problems in terms of the review of these cases. I believe that it is the latter. It may very well be the latter, given the State-by-State variations.

Senator CONRAD. There are huge variations, by the way. I mean, we are seeing a variation of 300 percent from State to State. We go from terminations that run from 27 percent to 82 percent, so something is radically amiss here. The data suggests that 67 percent of the cases that were appealed were overturned. That tells me there is a pattern here.

That is why I asked you, if you are confirmed, will you take immediate steps to ensure that there is a review of those who have been terminated and that people have been given proper instruction before making these termination decisions.

Mr. APFEL. Senator, since I have not had the opportunity of being at the Social Security Administration yet, I would be reluctant to make that commitment today.

My commitment would be that, if confirmed, within 30 days I would require the Social Security Administration to do a top-to-bottom review of the structures that are there so that I have the information available to me to be able to make the choice about whether remedial action is necessary, and whether suspension is necessary.

So, I would like to be able to have a 30-day window from the date of confirmation to try to get every bit of information available, a top-to-bottom scrub of these policies that have been implemented, to determine what action should be taken.

Senator CONRAD. Well, Mr. Apfel, let me just say that I personally believe there is enough evidence that something is amiss when we get 300 percent variation State to State, when we see 67 percent of the cases that are appealed overturned, when the normal overturn rate is 5 to 10 percent, that things are not going well. I

have a fistful more of examples that I think just scream out that something is wrong.

Mr. APFEL. I have seen many of them too, Senator. Of particular concern are the mentally retarded. Basically, it is my understanding of the law that if a mentally retarded child has functional capabilities consistent with that definition of mental retardation, that that child should be on the rolls. If they are not, it does not sound to me that the system is working correctly. So, there is a need to go back in and determine what needs to be fixed.

Again, since I am not yet the Commissioner, and that is up to this body, I would like to reserve the right to do this top-to-bottom scrub during the first 30 days and then determine what remedial actions are necessary.

It may very well be during that 30 days, even before that time, that major actions would be taken, but I would like to have the opportunity to learn, to see the comments on the regulations, to understand better what those changes are.

Senator CONRAD. All right. I understand that. I would just ask, will you make that report available to this Senator and this committee?

Mr. APFEL. Yes, sir.

Senator CONRAD. I thank the Chairman.

The CHAIRMAN. Senator Kerrey.

Senator KERREY. Thank you, Mr. Chairman.

Mr. Apfel, both the questions of Senator Grassley and Senator Conrad are of interest to me as well and they sort of get at the question of how independent you are going to feel as the Commissioner of the Social Security Administration.

Do you feel like your performance is going to be rated by the Secretary, by the President; to whom do you feel you owe your primary responsibility? In other words, by statute, who could remove you for cause?

Mr. APFEL. Well, that is the only way I can be removed: for cause.

Senator KERREY. By the President? Do you perform for the Secretary, do you perform for the President? How independent will you be, Mr. Apfel?

Mr. APFEL. Well, the independent agency legislation established a very unique relationship in government and one that I am very excited about taking on.

Basically, the 6-year term, although it is now a 3-year term, as Senator Moynihan has pointed out—

Senator MOYNIHAN. Three years having elapsed without any Commissioner having been appointed.

Mr. APFEL. The 3-plus year term that remains requires the Commissioner to report directly to the President. There is no Secretary. Social Security is no longer part of Health and Human Services. There is a direct report to the President as an advisor to the President, although, as you point out, the Social Security Commissioner is only removable for malfeasance.

Senator KERREY. You would not consider a policy disagreement to be malfeasance.

Mr. APFEL. No. It is not just cause. Basically, it is for very grievous actions.

Senator KERREY. I presume you will commit no grievous actions, but there will be time to time where it may seem grievous to the person who disagrees with you. [Laughter.]

Mr. APFEL. Well, there may be some sizable policy disagreements that take place in the course of the next 3 years, but the new legislation establishes independence for the Social Security Commissioner, of—

Senator KERREY. My set of concerns, Mr. Apfel, and I am interrupting only because I am conscious that there are other nominations and I am trying to get through before the light goes off.

My set of concerns are, number one, having to do with the education that is necessary both in Congress, and with the American people about what Social Security is. It is a simple program and it is, quite simply, one of the most misunderstood programs that we have in the Federal Government.

My hope is that, in addition to providing good documents which the agency is currently providing, that you will actually test to find out, what is the general level of understanding amongst beneficiaries and those currently eligible and those who will be eligible in the future, and as well members of Congress. If we are out educating the people based upon inaccurate understanding ourselves, we are obviously not going to do a very good job.

So I hope one of the things you will do with this independent status is determine whether or not the people understand the program. The people to include their representatives and beneficiaries, future and current.

Second, I would say that as a part of the education effort that I hope that you will come forward and begin to talk about the different nature of the 30-year crisis. It is different than 1983. One of the things that happens in democracy altogether too often is that we wait until there is a crisis before we solve it.

I would assert that if we wait until 2029 to solve this problem, we are going to have a much larger crisis than the one we had in 1983. Indeed, there are two big speed bumps along the way, one in 2012 and another in 2017, where we are going to have significant budgetary problems and as we start to have to redeem bonds in order to make payments.

So I hope that one of the things that you will do with this independent status is come to this Congress, come to this committee especially, and say to us, Senator Kerrey, here is the problem that is going to be created with delay. This is why delay is dangerous.

This is why complacency and a presumption that we can wait until 2030 to solve this problem is going to create a very, very dangerous situation, especially for beneficiaries who are currently 37 years of age and under who will not be eligible at that point in time who are going to pay the price for our delay.

So use that independent status, Mr. Apfel. It is not malfeasance for you to be bringing us bad news. I hope you will bring us the news accurately, honestly, and in a way that will cause us to take action sooner rather than later.

Mr. APFEL. That is very much what I perceive my job to be, Senator.

Senator KERREY. Good.

Mr. APFEL. If I could say, there are three main functions that I think must be accomplished by the Social Security Commissioner. One, is the public policy debate, the big debate, which will include both the new relationship with the President and the new relationship with the Congress as well as the independent Social Security agency.

Senator KERREY. Mr. Apfel, one of the reasons the commissioner is necessary, is previously commissioners have not been feeling that they are independent enough to come and tell us.

You are the one that understands the cash flow urgency of Social Security checks, that I have got 37 million people out there whose lives depend on it. If they do not get their check, their lives are unalterably changed.

Senator Conrad talked about the trauma that occurs when I have got a child who is obviously disabled and dependent upon SSI. When that check goes away, that is terribly traumatic. So you understand the urgency, and I have great respect for you and great respect for the commission.

One of the reasons the commission was created was that the commissioner previously was not sufficiently independent. So I hope that you do not pass off to the commission things that you do not need to pass off to the commission.

If you have the understanding and if you have the recommendation and you have a perception that needs to be brought to this committee, I hope that you will bring it to the committee and not presume that the commission has to do it for you.

Mr. APFEL. Well, Senator, the public education role is central to this. If we go back to look at the budget deficit issue, there was a fairly long period of time of public education about the implications of the budget deficits that took place. That public education helped frame the debate that helped lead to the bipartisan choices that have been made over the past several years.

If we look at 1983 and the Social Security reform legislation, it was a different issue at that point in time. But there was a 2-year debate that took place before that about the choices that needed to be made, and that debate, the American debate, public opinion debate that took place, helped frame the debate so that changes could be made in 1983.

Senator KERREY. Well, fortunately for you there is not time enough for me to respond to that statement, but I will do it with you privately.

Mr. APFEL. Well, if I could also say, Senator, I think as we have met privately, you have heard my views and I will continue.

Senator KERREY. Sure. I have. Thank you.

Senator MOYNIHAN. Mr. Chairman, could I just say to Senator Kerrey that while we were all out voting and I was here Mr. Apfel mentioned the three things he had to do, of which the first was the public policy debate. I asked him, will you take part in that debate, and you said, sir?

Mr. APFEL. I think I said, "absolutely."

Senator MOYNIHAN. Yes. I mean, he is an independent, responsible for the most important domestic program we have. He reports to the President and the Congress. Absent enormous missing ac-

counts, which I cannot imagine, he will be there for the full three years, and I hope another six years afterwards.

Mr. APFEL. Maybe nine.

Senator MOYNIHAN. Thank you, sir.

The CHAIRMAN. Senator D'Amato.

Senator D'AMATO. I have no questions, Mr. Chairman.

The CHAIRMAN. Well, Mr. Apfel, again, we want to thank you for being here today. We look forward as a committee to working with you in this critical area to the American people. Thank you very much.

Mr. APFEL. Thank you, Mr. Chairman. Thank you.

The CHAIRMAN. Now I would like to ask both Nancy-Ann Min DeParle and Olivia Golden to join us at the table.

Ms. DeParle has been nominated to the position of Administrator of the Health Care Financing Administration at the Department of Health and Human Services. In this capacity she would be responsible for administering the Medicare and Medicaid programs.

Dr. Golden has been nominated to the position of HHS Assistant Secretary for Family Policy, which is responsible for oversight of the Welfare Reform law, among other things.

We are very pleased to have Senator Frist here, who will introduce Ms. DeParle.

STATEMENT OF HON. BILL FRIST, A U.S. SENATOR FROM TENNESSEE

Senator FRIST. Thank you very much, Mr. Chairman.

It is a distinct honor and a pleasure for me to have this opportunity to introduce a friend and colleague in many ways, Nancy-Ann Min DeParle to the U.S. Senate, through this committee.

I have known Nancy-Ann for several years and have known of her work, being a fellow Tennessean, for many, many more years. We share very many personal, as well as professional, friends.

Nancy-Ann Min DeParle is, to my mind, one of the most outstanding people to come out of our State, the great State of Tennessee. As a physician in Tennessee where I practiced for the 10 years prior to coming to the United States Senate, I had the opportunity to witness many, many of her accomplishments as they affected health care throughout Tennessee. I want to welcome her formally in this new capacity as a leader of the Medicare and Medicaid programs.

She has distinguished herself in many, many capacities in many, many ways. She was the first woman elected as University of Tennessee student body president; she was a Rhodes scholar; a Harvard law school graduate; the youngest member of Tennessee Governor Ned McWhorter's cabinet in the 1980's where she was Commissioner of Human Services; partner in a law firm which represented State interests in many Federal programs, a unique perspective, I believe, for the task she is about to undertake.

The Medicare/Medicaid programs are something that are critically important to the future of this country, and I can think of nobody with whom I have come into contact with over the past years who is better positioned to lead Medicare and Medicaid in what will be a very challenging time over the next several years.

I cannot think of a more experienced person, a more impressive person to fill this slot, to be selected by the President to oversee these programs.

Mr. Chairman, I am proud to introduce to this committee and to the U.S. Senate, Nancy-Ann Min DeParle.

The CHAIRMAN. Thank you for that very warm endorsement. I know you are busy and have other commitments, but we appreciate your taking the time to be here to introduce Ms. DeParle.

Ms. DeParle, are there any members of your family here that you would like to introduce?

Ms. DEPARLE. Yes, Mr. Chairman, there is. Jason DeParle, my husband, is here with me today.

The CHAIRMAN. Welcome. It is nice to have you here.

Ms. Golden, do you have any family members here?

Ms. GOLDEN. I do, my mother Hilda Golden, who has joined me from Massachusetts.

The CHAIRMAN. Well, we are very pleased to welcome her.

We will now swear in both the nominees.

[Whereupon, Ms. DeParle and Ms. Golden were duly sworn.]

The CHAIRMAN. Thank you. Please be seated.

Ms. DeParle, we will now proceed with your statement.

STATEMENT OF NANCY-ANN MIN DEPARLE, TO BE ADMINISTRATOR OF HEALTH CARE FINANCING ADMINISTRATION OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

Ms. DEPARLE. Thank you very much, Mr. Chairman.

I would like to thank Senator Frist for his kind words of introduction to this committee and to the Senate.

Mr. Chairman, Senator Moynihan, and members of the committee, my name is Nancy-Ann Min DeParle and I am honored to be here today as President Clinton's nominee to be the Administrator of the Health Care Financing Administration at the Department of Health and Human Services.

For more than three decades, Medicare and Medicaid have met the basic health care needs of elderly, disabled, and low-income Americans. Today, one in every four Americans relies on these important programs.

The focus of the Health Care Financing Administration must be to work with the Congress, the States, and our provider partners to ensure that Medicare and Medicaid are strong and well-managed. This will be my goal as Administrator.

Working together, this Congress and the President have set the agenda that will help us achieve this goal. Last month in a spirit of bipartisanship, Congress enacted the Balanced Budget Act which took an important first step to reform Medicare, strengthen Medicaid, and establish the ground-breaking new Children's Health Program.

It is with this same bipartisan and cooperative spirit that we plan to work with the Congress and our stakeholders in implementing this major legislation.

With respect to Medicare, the law changes many of our payment methodologies to make them more efficient and less susceptible to abuse. It offers beneficiaries important new preventive benefits and new health plans from which to choose.

It begins to address the short-term challenges faced by Medicare, extending the life of the trust fund for 10 years. It establishes a bipartisan commission on the future of Medicare to develop long-term solutions to meet the challenges of the baby boom generation.

The changes embodied in the Balanced Budget Act are the most significant so far in Medicare's history. Now their successful implementation will be one of my top priorities.

Another top priority is to implement the new State Child Health Insurance program, which represents our country's commitment to reduce the number of uninsured children.

We must be sure that this new program is integrated with Medicaid and other State child health programs, and we must ensure that it reaches eligible children with the right balance of Federal standards and State flexibility. This will be a major challenge, to which I am very committed.

Finally, we must continue and sharpen our focus on fraud, waste and abuse in Medicare and Medicaid. The Balanced Budget Act gave us some new weapons to use in that fight, but it is clear that we must become even more aggressive in our program integrity efforts. Tougher oversight will protect taxpayers' money, it will increase public confidence and guard the trust fund, and it is the right thing to do.

Mr. Chairman, if confirmed by the Senate I will bring to this effort the knowledge, management skills, and perspectives I have gained in State and Federal Government and in private law practice.

Those who have worked with me in the past, including the members and staff of this committee, know that I believe this country and our program beneficiaries are best served through bipartisan collaboration.

If confirmed, I intend to work closely with this committee and the Congress to achieve our mutual goals of strengthening Medicare and Medicaid and ensuring that the best possible care is delivered in the most efficient manner possible to our beneficiaries.

Thank you very much.

[The prepared statement of Ms. DeParle appears in the appendix.]

The CHAIRMAN. Thank you very much, Ms. DeParle.

Ms. Golden, we would ask for your statement now.

STATEMENT OF OLIVIA A. GOLDEN, TO BE ASSISTANT SECRETARY FOR FAMILY SUPPORT OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES

Ms. GOLDEN. Thank you. Mr. Chairman, Senator Moynihan, distinguished members of the committee, my name is Olivia Golden. It is an honor for me to appear before you this morning as President Clinton's nominee to be Assistant Secretary for Family Support in the U.S. Department of Health and Human Services.

As you know, if I am confirmed for the statutory position of Assistant Secretary for Family Support, I will also serve as Assistant Secretary for Children and Families, which is a position created in an administrative reorganization of HHS programs in 1991.

The Administration for Children and Families brings together a range of programs that assist families in moving towards self-sufficiency and support children's healthy development.

It is the lead agency for implementation of three titles of last year's welfare reform legislation: Temporary Assistance for Needy Families; Child Care; and Child Support Enforcement.

If confirmed, I am deeply committed to working with State and community partners to achieve the goals of these reforms: moving families from welfare to work; ensuring parental responsibility for children through an effective system of child support enforcement; and protecting and promoting children's well-being and healthy development.

If confirmed, I will bring to ACF a breadth of experience and leadership that I believe has prepared me to accomplish these goals. My career has combined State and Federal level public management, scholarship, teaching, and community leadership in the fields of child and family policy, employment policy, and welfare policy.

I began my career in State government in Massachusetts as a budget analyst with the State Department of Public Welfare, and I later returned to serve as budget director for the State Department of Human Services.

I taught and wrote for four years at the Kennedy School of Government at Harvard University, and directly before joining HHS in 1993 I was for two years the director of Programs and Policy at the Children's Defense Fund, where I provided technical assistance and public education to State and local policy makers around the country.

These experiences culminated in my appointment as Commissioner of the Administration for Children, Youth and Families here at HHS in 1993. During my tenure as ACYF Commissioner, there are several accomplishments, achieved in partnership with States, with grantees, with this committee and the Congress, and others in the administration of which I am particularly proud.

We worked together to ensure quality in Head Start programs across the country and to design and implement the new Early Head Start program, with a focus on infants and toddlers. We created the new and streamlined Child Care Bureau, with its capacity to reach out to States, to child care providers, and to parents with expertise and information.

We worked to refocus our National child welfare system on results by reshaping Federal monitoring and technical assistance, and we laid the groundwork for the administration's commitment to double adoptions from the public child welfare system by the year 2002.

ACF's goals are ones to which I am deeply committed and to which I hope to make a contribution. Mr. Chairman, if confirmed I will continue to work on a bipartisan basis with you, the members of this committee, and the Congress to achieve our mutual goals and to make a difference for children and families in America.

I want to thank you for this opportunity to testify, and I would be delighted to answer any questions that you may have.

[The prepared statement of Ms. Golden appears in the appendix.]

The CHAIRMAN. Thank you, Ms. Golden.

I have three standard questions we ask of all nominees. I think what I will do is pose the question and then ask each of you to answer. That will save a little time that way.

First, is there anything you are aware of in your background that might present a conflict of interest with the duties of the office to which you have been nominated? Ms. DeParle?

Ms. DEPARLE. No, sir.

The CHAIRMAN. Ms. Golden?

Ms. GOLDEN. No, sir.

The CHAIRMAN. Second, do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office for which you have been nominated? Ms. DeParle?

Ms. DEPARLE. No.

The CHAIRMAN. Ms. Golden?

Ms. GOLDEN. No, sir.

The CHAIRMAN. Finally, do you agree without reservation to respond to any reasonable summons to appear and testify before any duly-constituted committee of Congress, if you are confirmed? Ms. DeParle?

Ms. DEPARLE. Yes.

The CHAIRMAN. Ms. Golden?

Ms. GOLDEN. Yes.

The CHAIRMAN. Next, I would like to ask you, Ms. DeParle. If confirmed, you will, of course, be head of HCFA during a very, very crucial time for stabilizing the Medicare Hospital Insurance trust fund.

While we have known for some time of the danger the trust fund is in, I think it is fair to say dramatic change has never been as urgent as it will be during your tenure at HCFA.

So my question is, What do you recommend as the next step in expanding upon the Medicare down payment and reforms just passed and signed in the Balanced Budget Act of 1997?

Ms. DEPARLE. Thank you, Senator.

Mr. Chairman, I would say, the first thing that we have to do, and this is clearly what is on my mind right now, is to implement the Balanced Budget Act that the Congress enacted last month. It gives us time to work on the longer term challenges that we are facing which, I agree with you, are major challenges.

But we have to get that implemented successfully in order to get the 10-year extension of the solvency of the trust fund and to make some of the changes that I think we both agree will lay the ground work for future structural changes in the Medicare system. So that would be the first thing I would do.

Second, I was very encouraged by the way that the administration and the Congress worked together this year in looking at policy changes to the Medicare program. Things that would not have been discussed in the past were discussed, and I know you are aware that the President has said how much he respects the work that this committee did in that regard.

All of those issues that have been discussed up here in the last couple of months need to be looked at now by the Commission as

they address the future of Medicare. I think that is the next place we need to go.

In the meantime, I think we at HCFA need to be working very hard, both to implement the Balanced Budget Act and to do a better job of combatting fraud and abuse. I think this is a fertile ground for us to move forward together on.

The CHAIRMAN. Well, I agree. I am very concerned about the high rate of fraud and abuse. I think that is a matter that needs careful attention.

On the long-term problem, of course, I think the sooner we are in a position to act, the better off we will be. The tendency here in Washington is to wait until the last minute, which often makes it that much more difficult to do what is necessary.

Ms. DeParle, you indicated in the materials that you submitted to the committee that you have recused yourself from any enforcement actions relating to Medicaid provider tax issues against States that were your former client. You indicated this recusal would be in effect until you received opinions from the Tennessee and Washington, DC Bar authorities.

The opinions from the Bar authorities have just recently been received. Could you please tell the committee, in light of these opinions, your intentions regarding your participation in these enforcement actions?

Ms. DEPARLE. Yes, sir. As Senator Frist alluded, when I was in the private practice of law I represented some States in submitting comments to the interim final rule that was issued in 1993 about the provider tax issue. So, pending a decision from the DC Bar Council, I have recused myself from involvement in any enforcement discussions about that rule.

But last Friday I did receive an opinion from the DC Bar Council stating that I could assess each of the States on a case-by-case basis, just to ensure that I did not learn any confidences or secrets from the client that need to be protected, before deciding to go forward with enforcement actions. So now I am in a position to involve myself fully in the enforcement of that law and that statute.

The CHAIRMAN. I will turn, for the moment, to you, Ms. Golden.

This past May the Department of Labor issued a policy guidance which states, "Federal employment laws, such as the Fair Labor Standards Act, the Occupational Safety and Health Act, Unemployment Insurance, and anti-discrimination laws apply to welfare recipients as they apply to other workers."

Is it your understanding of that policy that placing a welfare recipient in a community work experience program, such as with the Salvation Army, or a community action committee, or the local Social Security office, that an employer/employee relationship has been created?

Ms. GOLDEN. Senator, thank you for raising that important issue. I guess the first thing I want to do is assure you of my commitment to ensuring that we will work with the States to enable families to move from welfare to work. That is our critical goal here.

As you note, the Department of Labor has determined that the Fair Labor Standards Act applies to welfare recipients who are engaged in work, and they have a set of tests about when someone is engaged in work. That means that welfare recipients who are en-

gaged in work are protected by the minimum wage and by a range of basic worker protections.

We think that that is consistent with enabling families to continue to move from welfare to work, and the history of State workfare programs suggests that they have operated with the minimum wage.

There are, I think, some particular issues that have been raised by the States. For example, regarding tax issues, we think that there is some more work to be done, and we should try to address those.

The CHAIRMAN. I have a copy of a letter from a Democratic Governor which states that many potential sponsors who would offer work experience placement would withdraw from the program, and that without these work experience slots available, the Governor contends that many people will not have the opportunity to receive such experience. In essence, if this happens, we all lose and welfare reform could well fail.

As the top administration responsible for welfare reform, are you willing to let this policy remain in place and take the risk that welfare reform will fail, or will you use your office to try to resolve this major problem?

Ms. GOLDEN. Senator, I am committed to ensuring that welfare reform succeeds and that families move from welfare to work. I think that the history of workfare programs, community work experience programs, have suggested that States can succeed in operating those programs, while enabling people to receive the minimum wage and basic worker protections.

I do think that it is going to be very important to work individually with the States around particular issues. I also know that some Governors, and I do not know the particular one that you are quoting, have raised a number of issues separate from the minimum wage that we need to address.

For example, they have raised the concern that there might be an obligation to pay FICA on behalf of people in workfare programs and that that would be a problem. I think the administration does share the view that we want to work on that set of concerns with Congress and the Governors in order to make sure that both goals happen, that welfare reform succeeds and that people who are working receive the minimum wage and basic protection. So, we want to work on those issues.

The CHAIRMAN. Are you saying that this is, in effect, still an open question then?

Ms. GOLDEN. I am identifying as an open question, Senator, the set of issues around payment of FICA. The administration has noted that there is a set of specific, detailed issues around taxes in particular. We have heard about this from the Governors as a concern, and that we would seek to work with Governors and the Congress on this issue.

The CHAIRMAN. Let me ask you this. If a county uses Federal and State funds to contract with a local organization for a work experience position, who is the employer and who assumes the responsibilities and liabilities for that welfare recipient?

Ms. GOLDEN. Senator, in my experience so far, as we work with States and counties on the development of work experience pro-

grams, is that a variety of detailed questions come up, some of which you have raised. Some of them come up in relation to State labor or other laws.

In general, I need to ensure that States, counties, and communities get the best and most localized information on their specific situations from both the Department of Labor and their State labor agencies.

The CHAIRMAN. Senator Moynihan.

Senator MOYNIHAN. Mr. Chairman, we have two exceptionally gifted and promising candidates before us, nominees before us, and we have a whole panel still to go. So, I will not do more than congratulate the nominees.

I would say to Ms. DeParle, you are very supportive of the administration, as you ought to be and will be, saying how interested they were on the things we did in this committee on Medicare last August, indeed, by unanimous vote.

In this committee we proposed that the Medicare age be raised to 68, in tandem with Social Security, and also that there be a higher rate of contribution for Part B, which is not a contributory system at all, it is financed with public monies.

That then passed the Senate in a most wonderful way. It got 88 votes, or some such. Something that was not supposed to happen, happened. Then it all died. The standard interest group said, do not do that, so the administration and the House said, no, we will not. Last year, we began to repeal the Social Security Act. We repealed Title 4A, providing for dependent children.

I do not think there is anything immutable any longer. We have commenced now to repeal Social Security provisions. Medicare will not survive if it cannot be paid for, and it cannot be paid for if it does not make some of those changes.

I do not think I should ask you to respond. You are nodding very generously. But I would note that we did something that you were not supposed to do, was not supposed to be possible, yet it was.

So a lot of other things might be possible. Just because the people who get paid to say no do what they are paid for does not mean you cannot do it.

Ms. DEPARLE. Well, Senator, I want the committee to know that I am committed to working with this committee and with the Congress on all the options that we all think need to be on the table and examined. I also want to assure you that the Health Care Financing Administration will provide the resources and the analysis required to enable us to make the kind of choices that need to be made. I want to strengthen Medicare.

Senator MOYNIHAN. You are very kind to say so. My colleague is going to have another subject to raise with you.

So I would just say to Ms. Golden, you are the first person, and all your predecessors have resigned on the grounds of their disbelief in what happened in the last Congress when we repealed Title 4A of the Social Security Act. So we welcome you for having the willingness to come in and to see what you can do with the new legislation.

We spoke about this, and I will just repeat it for the record, Mr. Chairman. In 1994, we passed the Welfare Indicators Act of that year to establish an annual report on welfare dependency.

This now becomes exceptionally important as we enter an age with time limits. You can find in no time at all we have no problem at all because nobody is on welfare, and everybody is sleeping in cellars, although you are not responsible for it.

We had our first big study by a good advisory panel last year. The next one, the first proper one—this was an interim study—will be October 31. You are going to work with the people involved in this and encourage. The idea was that we would produce a document comparable to the Economic Report.

We dealt with the crisis of a half century ago and it has done wonderfully well. We have a crisis of dependency today, and I hope you will continue to make sure that our national statistics do not hide failure if failure comes about, or difficulties, which will surely come about.

Ms. GOLDEN. Yes. I appreciate, Senator, the chance to talk a little bit about that indicators issue, as you raised it yesterday. I share completely the view that research and tracking key indicators are going to be a critical part of ensuring that we succeed. I want to thank you and the members of this committee for their leadership on that range of issues.

Senator MOYNIHAN. That is very generous to say.

Thank you, Mr. Chairman. Congratulations to you both.

The CHAIRMAN. Senator Grassley.

Senator GRASSLEY. You are probably tired of hearing about the \$23 billion from the Inspector General, but you are in a good position through your leadership to correct some of these problems.

It is my understanding that HCFA has several efforts under way to evaluate the use of information technology in detecting and preventing waste, fraud and abuse in Medicare claims processing, things like Correct Code Initiative, testing commercial off-the-shelf fraud detection software and an interagency agreement with the Los Alamos National Laboratory to detect patterns of fraud and abuse.

So my question is, simply, has HCFA prepared an overall plan and strategy that articulates how these efforts will be integrated into the department's efforts to help prevent waste, fraud and abuse in the Medicare program so we do not waste \$23 billion of the taxpayers' money?

Ms. DEPARLE. I think we have, Senator. You and I had a very productive discussion about this yesterday. A 13 or 14 percent error rate in claims payment is not acceptable to me, and I know it is not acceptable to this committee, nor to the President or the Secretary, so we have to do something about it.

We do have a strategy in place and a corrective action plan. It is clear that the long-term solution is to start paying right the first time, and that has to be our goal. Some of the tools, such as the Los Alamos contract and the new technology that they can make available to us, will help us there.

In the meantime, we have got to engage the provider community because, as you and I discussed yesterday, part of this problem was that providers just did not respond to requests for documentation. We do not know that it was fraudulent. We do not know that they did not provide the services. They just did not bother to respond.

We have to engage the provider community. This accountability, the accountability that you and that the American people expect out of us, goes both ways. We have to make sure that there is accountability on the part of providers. Also, we are going to have to do many more medical reviews and audits to make sure that we are catching the abuse and the overpayments.

I think we are making progress, but we have a long way to go. I look forward to the guidance of this committee in moving aggressively in that area.

Senator GRASSLEY. You can see the chart I put up. It refers to some deadlines that are in the Balanced Budget Act as a result of some very major policy changes that we have made, both in Medicare and Medicaid. One of these is a policy change that you only have three weeks to make use of, and January 1 for some others.

So, very simply, a question is whether or not you can assure us that HCFA, under your leadership, will be able to meet these deadlines, and what will you have to change at HCFA in order to ensure that the deadlines are met? If there are some deadlines that you cannot meet, I hope you will be candid with us and tell us.

Ms. DEPARLE. Well, Senator, your chart is a lot prettier than the one I have. I have one that is about 20 pages long, with I think 237 provisions that were in the Balanced Budget Act just for Medicare. That does not even include Children's Health and Medicaid provisions that you have up there.

There is no question that it is going to be an enormous challenge. It is one to which I am very committed. I think that the changes in the Balanced Budget Act are very good for Medicare and we need to get them implemented on a timely basis.

I would love to sit here and tell you that I can assure you right now that we are going to meet every single deadline in that law, but prudence tells me that is not a good thing to say.

So what I am going to say to you is that I am committed to making sure that this committee and its staff are aware of what we are doing. If we are not going to meet a deadline, you will know about it and you can work with us in deciding whether there are other priorities or whether we need to change something to make it work.

You asked about what changes would need to be made at HCFA to enable us to meet the deadlines. As you know, and we discussed this yesterday, there has been a reorganization of the agency over the past year that, in fact, streamlined it in some ways. For example, Medicare managed care and fee-for-service are placed together so that they can work more closely together and one is not an outpost of the other. I think the reorganization has made some changes that will actually smooth the way toward implementation of the Balanced Budget Act provisions.

There will also need to be a discussion about resources because we have been downsizing over the last couple of years. It may well be that we need to discuss with you and your colleagues whether more resources are needed to implement the position in the Balanced Budget Act.

But I am committed to making sure that this committee is aware of where we are and where we are not, and that we do everything we can to meet the deadlines.

Senator GRASSLEY. Ms. Golden, there are a lot of changes that are probably going to pass on foster care. We have had a major explosion in the cost of foster care. The number of kids going into it have skyrocketed, and the number of children that are finding permanency has remained the same. Nearly half the States, including the District of Columbia, are directed by consent decrees.

As Assistant Secretary for Family Support you will oversee the Foster Care and Adopted Assistance programs. How will you guarantee that the States comply with their original call, the consent decrees, and any other Federal directives?

Ms. GOLDEN. I think the issues of child welfare, of foster care, and of adoption are among the most important issues we have because the children are so vulnerable. I want to thank you for raising the issue and for the conversation that you and I had around foster care and adoption.

There are several things that I would do if confirmed as Assistant Secretary, and in fact we have already begun.

As you know, the President has made a commitment with us to double the number of children adopted from the child welfare system by the year 2002. There has been a tremendous bipartisan Commitment in the Congress, with leadership from this committee, to pass some legislative changes that will make that easier.

But I also think that we can do a great deal on the administrative side. We are in the process right now of setting goals with the States, of sitting down State-by-State and saying, make this commitment and let us talk about it.

A second thing that we have begun, and that I will make a commitment to complete, is to revamp our Federal approach to monitoring. One of the things that this Committee and others have expressed concerns about in the past is that Federal review of State child welfare programs focused way too much on paperwork and not on the results for children.

We have been redesigning our approach to focus on children's safety, on finding them permanent setting, and on their well-being, and we will be moving ahead with that. So for me, there is no higher priority.

Senator GRASSLEY. What about the reduction of Federal help to the States when they are not meeting these guidelines, or decrees, and everything that goes with it?

Ms. GOLDEN. Right now there are a variety of approaches to Federal enforcement. Once we get those new monitoring regulations out, we will be in a position to enforce based on results, whereas before it has been just about paperwork.

Senator GRASSLEY. Would you support a reduction in incentives to the States?

Ms. GOLDEN. The Administration would support and has supported the provision in the bipartisan legislation that just passed the House that would, for the first time, tie reimbursement of adoptions to States' success in meeting the goals. So that is tying dollars to success.

As the members were deliberating in the House and as we have been deliberating, we came to the conclusion, which was shared on a bipartisan basis, that we would support that tie to results. That is a critical thing. Reducing resources for foster care payments for

children would not be a good idea because of the vulnerability of those children.

Senator GRASSLEY. Thank you, Mr. Chairman.

The CHAIRMAN. Senator D'Amato.

Senator D'AMATO. Thank you, Mr. Chairman.

First, let me say I am very encouraged by the breadth of experience that the two nominees possess who are before us today, and I certainly wish them every good wish in their very, very important undertakings and posts.

Ms. DeParle may I ask you, when you informed the committee with respect to certain limitations, as in dealing with provider tax issues on provider tax, does that cover the State of New York?

Ms. DEPARLE. Yes, sir, it did. Just last week, however, as I mentioned in the discussion with Chairman Roth, the DC Bar Council has rendered an opinion that it is permissible for me, under the Professional Ethics Standards, to deal with those issues. Further, I need to assess on a case-by-case basis whether I gained confidences with respect to a given State. With respect to New York, sir, I do not believe that I did.

Senator D'AMATO. All right. Then let me, if I might, as quickly as I possibly can ask you, are you familiar with the overall dilemma as it relates to New York and the provider tax situation that exists at the present time not only in the President's line item veto, but the fact that we have pending now for a number of years going back to the 1980's, but for now two-plus years, a request for clarification as it relates to our program. Are you aware, generally, of that?

Ms. DEPARLE. I am generally aware of it. I became aware of the waiver request that you are referring to, sir, from reading a comment that you had made. I asked about it after I learned that.

Senator D'AMATO. First of all, let me say that the characterization of the legislation that has been reported, that which Senator Moynihan and I and this entire committee supported with respect to New York and the provider tax, I think in some cases was extremely at variance with the facts.

It was introduced not as a special interest, but rather to move a process forward so that New York can continue to use dollars, which it has been, and we can tend properly for the health care needs of those who have no insurance, who are poor.

In one instance, let me just say, this year over \$109 million is being used to provide insurance coverage for 140,000 youngsters who otherwise have no insurance. It is one of the great programs. The Governor intends to expand that program. We talk about taking care of the needs of children who are uninsured.

These are basically from working families above the area where they are taken care of with Medicaid, but yet the family and/or their employers do not give to the mom or dad insurance coverage for the children. We have half a million in New York. So this program takes care of 140,000 of those youngsters, and the goal is to expand it up to 500,000.

Senator MOYNIHAN. To a quarter of a million by 1999.

Senator D'AMATO. Yes. And that is what these dollars are being used for. As it relates to the 1991 legislation which both Senator Moynihan and I voted for to stop low States who were scamming

the system, and they literally were. Let me give an example. They would have a tax that, let us say it was \$5,000 that it amounted to. Well, they would then go to Washington and say, look, we have collected \$5,000 to be utilized for taking care of the needs of the sick, the poor, et cetera.

The Federal Government would then give them their matching share, \$5,000, in some cases more. They would then reimburse and give the \$5,000 back, never spend it, and just use the Federal money. That is scamming the system. We have not done that. That has not been the case with our State.

Senator MOYNIHAN. No.

Senator D'AMATO. Nor did we use these monies inappropriately to build highways or send an orphan to some other area. It has been used to insure the uninsured, to take care of the elderly, the impoverished, et cetera.

That being the case, I honestly believe that those who advise the President did not give him the totality of this problem, nor the fact that we have been waiting for years. We have not had a request answered that goes back to 1995, when we responded to HCFA's request for clarification as of 9/10/97.

Now, I am not saying as of yesterday. You know what I am saying to you because we knew this hearing was coming up, that somebody did not say, we just sent the State—nobody has done anything.

Now, the question is, Do you believe maybe we need legislation that says that where we ask for a clarification or for a waiver—because you were a representative of a State you ran into this before, right?

Ms. DEPARLE. Yes, sir. I have dealt with disallowances and error rates and similar matters before as a State administrator. There is no question in my mind that we need to engage a process to move forward quickly for New York and the other States. It is not constructive to have this hanging over their heads. I can remember well how that felt when you are trying to run a program. We need to deal with this quickly.

Senator D'AMATO. And hundreds of millions of dollars that are put into question and people not knowing what to do, and lives—not only money, lives—and programs that affect people. That is why I believe, and I do not mean to be speaking for my colleague, the senior Senator, but we share a sense of frustration in saying, by gosh, give us some answers so we can go forward. That is not to even mention the fact that our reimbursement formulas which Senator Moynihan had spoken to—

By the way, in the budget, I think it is interesting. Fourteen States received help from this committee consciously, deliberating, in aiding with problems that exist because of lack of funding for Medicaid or because of cutbacks to States who actually got their reimbursement formulas picked up from 50 percent in one case, to 59.8 in the other, to 60, District of Columbia and Alaska. When these formulas were designed they did not take into account the poverty rate. New York has got the fourth highest poverty rate in the Nation.

Senator MOYNIHAN. Could I correct my good friend?

Senator D'AMATO. Certainly.

Senator MOYNIHAN. Third.

Senator D'AMATO. Third. We have moved to third. The General Accounting Office, in its report to Senator Moynihan and myself, has indicated that those factors have not been taken into account.

The fact is, we are absolutely being treated unfairly by two things, and it is not your fault. But HCFA has not responded in a timely fashion. This is not new. This is rather incorrigible.

Second, when legislatively we have attempted to do what was done for 14 other States and the District of Columbia who actually had their formulas changed, I believe, again, that I do not think that people gave to the President the totality of this thing. You know what I really think?

I think some administrators and some people in the administration got their nose out of joint, some assistance and whatnot, because we went around them to do what should have been done a long time ago to get this resolved.

So now I understand that the President is writing to the Governor. Are you aware of that?

Ms. DEPARLE. I understand the same thing, Senator.

Senator D'AMATO. In trying to resolve this issue.

Ms. DEPARLE. I apologize for the fact that the State has been waiting for a response.

Senator MOYNIHAN. Well, you do not have to apologize.

Ms. DEPARLE. If I am confirmed, I intend to get this process moving. I think the President is sympathetic to some of the things that you just said described. I know he has expressed concern about the FMAP before. In fact, it was for that reason that the Administration proposed a commission to look at the Medicaid matching rates because, as you know, it is complicated.

It is either a zero-sum game where some States lose and some gain, or it is a very expensive proposition. It is certainly something we would be happy to work with the Committee on.

Senator D'AMATO. Well, let me say this to you. I am, in this very short period of time, very heartened by the fact that the Administration has sent someone of your caliber, your knowledge, your background, your expertise to undertake this tremendously important position.

I take your word for what you say, and the sincerity. You have seen these things in the past from your past life working on the State level, and I hope that you could get an appreciation for the sense of frustration and the difficulty in attempting to meet the needs of the poorest of the poor, and our children in particular.

So I really look forward to working with you, along with Senator Moynihan and the rest of the committee but, in particular, with respect to this problem. I do not think that you bring to the table the sense of, oh, we are going to show you because you guys did what you did.

I think some people advised the President on that basis. I cannot believe that the President, given his longstanding commitment and record of attempting to take care of the needs of children in particular and those who do not have adequate coverage, not the totality of this, because this was not something that enriched a State or special interest group at the expense of others.

So I look forward to working with you and I am tremendously pleased that the administration has sent two, I think, outstanding and distinguished individuals to undertake these very important positions. I thank the Chair.

The CHAIRMAN. Senator Conrad.

Senator CONRAD. Thank you, Mr. Chairman.

First, to Ms. DeParle. I have had a chance to be in the room many times when you have provided briefings and answered questions and I have always thought that your powers of expression and the clarity of your thought are really quite remarkable.

I know that many times I have thought that you were able to make very complex matters understandable, or at least relatively understandable. So I wanted to just commend you for the talent that you bring to this position.

Ms. DEPARLE. Thank you, Senator.

Senator CONRAD. Ms. Golden, I have not had a similar chance to hear from you other than this morning, but I was similarly impressed by you this morning. I think we have two outstanding nominees that I will be proud to support.

I am, Mr. Chairman, going to withhold questions because I think the Chairman and Ranking Member have the additional panel and the time is really extended here.

I have a number of questions that I would like to put to the nominees, but I am going to withhold them for now.

The CHAIRMAN. I thank the distinguished Senator for doing that because we do want to proceed and it is very helpful.

Let me thank each of the nominees for being here today. As you have heard, we are very impressed indeed with your background and wish you well. Thank you very much.

Ms. DEPARLE. Thank you, Mr. Chairman.

Ms. GOLDEN. Thank you, Mr. Chairman.

The CHAIRMAN. I would now ask the remaining nominees from the Treasury Department to join us at the table. Mr. Lipton, to be Under Secretary of the Treasury for International Affairs after having served as Assistant Secretary for International Affairs for two years.

Mr. Timothy Geithner has been nominated to be Treasury Assistant Secretary for International Affairs, the position now held by Mr. Lipton.

Mr. Gensler has been nominated to be Treasury Assistant Secretary for Financial Markets, a position that is responsible for managing our Nation's debt obligation.

Finally, we are pleased to have Ms. Killefer, who has been nominated to be Treasury Assistant Secretary for Management and the Chief Financial Officer for the Treasury Department.

Senator MOYNIHAN. Mr. Chairman, the time being such and votes coming up, I will not be down at the witness table, but I particularly want to welcome two New Yorkers.

Mr. Geithner, we welcome you, sir. Mr. Gensler. I would note, if I may, that Mr. Gensler continues an exceptionally important tradition at Goldman Sachs of sending very able executives to help out a bit with the finances here in Washington, which seem to be always more complicated than they do in New York. We are pleased to have you.

I know there are a lot of children. I see an awful lot of kids out there, do you not?

The CHAIRMAN. Yes. We are very pleased to have you here.

Let me ask you, Mr. Lipton, are members of your family here?

Mr. LIPTON. Yes. My wife, Susan, my daughter Anna, and my daughter Sasha are behind me. My son Gabriel, who is four, stayed at home in order to keep the disruptions to a minimum.

The CHAIRMAN. A very handsome family.

Mr. LIPTON. Thank you.

The CHAIRMAN. Mr. Geithner.

Mr. GEITHNER. Yes. I am fortunate to be joined by my wonderful wife Carol, and my children, Elise and Benjamin, and my father is here too, and my brother, ably representing the rest of my family.

The CHAIRMAN. It is a great pleasure to welcome each and every one of you.

Mr. Gensler?

Mr. GENSLER. Yes. I am joined here today by my wife Francesca, my three daughters, Anna, Lee, and Isabel. I hope Isabel stays a little quiet for us here. My parents, Sam and Jane Gensler, my brother David, and I believe I have other members of my family, a great-aunt and uncle, cousins, nephews, and so forth. [Laughter.]

The CHAIRMAN. It is a great honor to have all of them here.

Ms. Killefer.

Ms. KILLEFER. Yes. I have my husband here, Bob Cumby, and my two children, Jamie and Robbie who are back there, and my mother, Mrs. Constance Killefer.

The CHAIRMAN. We want to welcome each and every one of them. They are, indeed, very good looking families. It is a pleasure to have them here.

I will now swear in the nominees.

[Whereupon, Mr. Lipton, Mr. Geithner, Mr. Gensler, and Ms. Killefer were duly sworn.]

The CHAIRMAN. Thank you.

Well, now I will turn to the standard questions we ask. I will just read them once and then ask each of you to answer.

The first question is, Is there anything you are aware of in your background that might present a conflict of interest for the duties of the office to which you have been nominated?

Ms. Killefer?

Ms. KILLEFER. No, sir.

The CHAIRMAN. Mr. Geithner?

Mr. GEITHNER. No, sir.

The CHAIRMAN. Mr. GENSLER?

Mr. GENSLER. No, Mr. Chairman.

The CHAIRMAN. Mr. Lipton?

Mr. LIPTON. No, Mr. Chairman.

The CHAIRMAN. Second, do you know of any reason, personal or otherwise, that would in any way prevent you from fully and honorably discharging the responsibilities of the office for which you have been nominated?

Ms. Killefer?

Ms. KILLEFER. No, sir.

The CHAIRMAN. Mr. Geithner?

Mr. GEITHNER. No, sir.

The CHAIRMAN. Mr. Gensler?

Mr. GENSLER. No, Mr. Chairman.

The CHAIRMAN. Mr. Lipton?

Mr. LIPTON. No, sir.

The CHAIRMAN. Finally, do you agree without reservation to respond to any reasonable summons to appear and testify before any duly-constituted committee of Congress, if you are confirmed?

Ms. Killefer?

Ms. KILLEFER. Yes, sir.

The CHAIRMAN. Mr. Geithner?

Mr. GEITHNER. Absolutely. Yes, sir.

The CHAIRMAN. Mr. Gensler?

Mr. GENSLER. Yes, it would be my honor.

The CHAIRMAN. Mr. Lipton?

Mr. LIPTON. Yes, sir.

The CHAIRMAN. Mr. Lipton, would you please proceed with your statement? I would say, to the extent you can consolidate, your full statement will be included as if read.

Senator MOYNIHAN. Mr. Chairman, we do have three votes in very short order. I have to tell you that.

The CHAIRMAN. That is right. We are trying to expedite the process.

Mr. LIPTON. I will try to be brief.

Senator MOYNIHAN. And we would like you all. [Laughter.]

STATEMENT OF DAVID A. LIPTON, TO BE UNDER SECRETARY OF THE TREASURY FOR INTERNATIONAL AFFAIRS

Mr. LIPTON. Mr. Chairman, Senator Moynihan, I am honored to be here today in connection with my nomination to be Under Secretary for International Affairs at the U.S. Treasury. I am honored that President Clinton and Secretary Rubin have expressed their confidence in me with this nomination.

For the past four and a half years I have served at the Treasury Department, most recently as Assistant Secretary for International Affairs, and before that as Deputy Assistant Secretary for Eastern Europe and the Former Soviet Union.

The past four and a half years have been a period of robust growth and low inflation worldwide, and thus a very satisfying time to have been at the Treasury.

Perhaps most important, officials in most of the countries of the world now adhere to the Washington consensus of sound fiscal policies and market and outward-oriented economic policies. That being said, there have been, and will continue to be, many challenges ahead. The current financial turmoil in Asia is just one reminder.

If confirmed as Under Secretary, I will work to advance the administration's goals, the goal, first and foremost of maintaining U.S. leadership on global economic issues.

That work will include, first, working with our G-7 partners to pursue macroeconomic policies consistent with strong rates of growth and low inflation.

Second, pressing the international financial institutions to support sound macroeconomic policies, strong market-oriented struc-

tural reforms, and good governance in all of their operations with their member countries.

Third, using the multilateral fora in which the United States participates to encourage countries to maintain sound policies.

Fourth, offering technical assistance to the key developing countries implementing important economic reforms.

Lastly, we will work to press our trade partners to reduce barriers to trade and investment, particularly through negotiations to conclude a strong WTO Financial Services Agreement.

I believe that these activities are important to the United States of America because growth and stability abroad mean growth and stability at home.

If I am confirmed as Under Secretary, I will do all I can to see that this work will be undertaken with professionalism and integrity.

I look forward to working with the Congress and at the Treasury with Secretary Rubin and Deputy Secretary Summers to further these goals.

Thank you, Mr. Chairman. I would be happy to answer questions.

[The prepared statement of Mr. Lipton appears in the appendix.]

The CHAIRMAN. Mr. Geithner.

STATEMENT OF TIMOTHY F. GEITHNER, TO BE ASSISTANT SECRETARY OF THE TREASURY FOR INTERNATIONAL AFFAIRS

Mr. GEITHNER. Mr. Chairman, Senator Moynihan, I am honored to appear before you today as you consider my nomination to be Assistant Secretary of the Treasury for International Affairs.

As a career civil servant at the Treasury for the past 9 years, it has been my privilege to serve in the administrations of President Reagan, President Bush, and President Clinton in a number of positions involved with promoting our interests in the global economy and the international financial system.

I am deeply honored by the confidence expressed by the President and by the Secretary in me, and in the career civil service at the Treasury by nominating me for this position.

I currently serve as Senior Deputy Assistant Secretary of the Treasury for International Affairs, and in this capacity I have worked to strengthen our economic relations with the major industrial countries in the nations of Asia to explore ways to promote financial stability and to expand opportunities for trade around the world.

In this capacity, I have been part of an active and meaningful process of consultation with the Congress and I am committed to working closely with this committee and with the entire Congress, if I am confirmed for this position.

If I am confirmed, I will work to uphold the formidable standards set by David Lipton and his distinguished line of predecessors in this position.

Thank you. I would be happy to answer any questions.

[The prepared statement of Mr. Geithner appears in the appendix.]

The CHAIRMAN. Mr. Gensler, please.

**STATEMENT OF GARY GENSLER, TO BE ASSISTANT
SECRETARY OF THE TREASURY FOR FINANCIAL MARKETS**

Mr. GENSLER. Mr. Chairman, Senator Moynihan, I am honored to appear before you here today as the President's nominee for Assistant Secretary of the Treasury for Financial Markets. I particularly want to thank Senator Moynihan for those kind words of introduction.

When I was asked earlier this year to join the Treasury I sought the advice of those closest to me, and we decided as a family to accept the opportunity and obligation of government service. I want to thank them for their support over the last few months and, if confirmed, their support in the years to come.

The prospect of public service is, for me, an exciting one. I see my service at Treasury as a way in which I can return something to our country which has given me so much. I consider myself very fortunate.

I grew up in Baltimore, surrounded by a strong extended family. I received a first-rate education in the public schools in my home State of Maryland and at the University of Pennsylvania.

I have worked as an investment banker during a period of unparalleled growth in the scope, speed and complexity of financial markets. I am determined to use my skills and experiences in ways that promote and protect the public interest. I cannot stress this point enough.

The broad matters of Federal, State, and local finance for which the Assistant Secretary for Financial Markets is responsible, may seem esoteric. They can, indeed, be highly technical.

I am acutely aware, however, of their importance to the fiscal health of the Federal Government and our economic well-being as a Nation. I assure that, like the President and Secretary Rubin, I am committed to these objectives.

The trust placed in me by the President and Secretary Rubin is a great honor and I intend, if confirmed by the Senate, to discharge this trust in a way that will fully justify their confidence, and yours.

I now look forward to answering your questions and, if confirmed, to working closely with this committee, its members, and your staff. Thank you.

[The prepared statement of Mr. Gensler appears in the appendix.]

The CHAIRMAN. Thank you, Mr. Gensler.
Ms. Killefer.

**STATEMENT OF NANCY KILLEFER, TO BE ASSISTANT SEC-
RETARY OF TREASURY FOR MANAGEMENT AND CHIEF FI-
NANCIAL OFFICER**

Ms. KILLEFER. Mr. Chairman, Senator Moynihan, it is a distinct honor to come before the Senate Finance Committee to be considered for the position of Assistant Secretary of Treasury for Management and Chief Financial Officer. I am also honored that the President and Secretary Rubin have seen fit to submit my nomination for your consideration.

The principal responsibility of this position in the Treasury Department is to provide strong management support and oversight for all the bureaus that make up Treasury.

In addition, and no less important, the job of Chief Financial Officer brings together the overall financial interests of the Secretary and the operating officers of the bureaus.

When I look at the scope of work that the Treasury employees perform each year, their involvement in every aspect of our society make it important that we do everything we can to enable each person in each bureau to perform at their best.

It is the Secretary's commitment to performance improvement that makes me feel that I can make a contribution by seeking this job.

In preparation for my business career, I graduated with a bachelor's degree in economics, and after working for a microeconomics firm I went on to get a master's degree in finance.

During the past 13 years I have specialized as a management consultant, and was privileged to work with the senior management of some of America's largest corporations on a full range of management issues that include strategy, organization, marketing, and systems.

My work has really focused on how to improve performance within the financial and human resource constraints that all organizations will have to face, whether they be private business, nonprofit, or the government.

Congress and the past two administrations have provided broad guidelines for improving government performance. For example, the Chief Financial Officers Act of 1990, and the Government Performance and Results Act of 1993.

Because of this environment and Secretary Rubin's commitment to change and improvement of all Treasury's bureaus, I have been inspired to seek this position to help make that commitment a reality.

I will use my experience to fill in the specific details to the guidelines developed by Congress. My husband and our two children have encouraged me to make this leap and, with the help of this committee, I hope to fulfill some part of all of our hopes for making government work better for the American people.

I would be happy to answer your questions.

[The prepared statement of Ms. Killefer appears in the appendix.]

Senator MOYNIHAN. Mr. Chairman, I would note the vote has begun. I want to just congratulate all of the nominees before us.

I want to say to Ms. Killefer, there is a range. Gensler there, thanks to you, sir, has a debt ceiling of \$5.85 billion, so he does not have anything to do for the next two years. But Ms. Killefer, I believe your hearings on the Internal Revenue Service start next week, do they not?

The CHAIRMAN. That is correct.

Senator MOYNIHAN. That is the luck of the draw, fellows. Congratulations.

The CHAIRMAN. Let me ask a very quick question of each of you, and then any other questions I have I will submit to you in writing.

Mr. Lipton, after much delay the President is preparing to submit his proposal to reauthorize fast-track authority for negotiating trade agreements.

How has this delay affected U.S. leadership on international, economic, and trade policy? What will be the impact if this proposal does not secure a quick reauthorization of fast-track?

Mr. LIPTON. Well, the fast-track initiative is extremely important to the United States for quite a number of administrations, led by both parties. There has been progress towards opening up markets for U.S. goods, for U.S. companies, and it is vital to maintain that progress in the interests of our firms and the interests of our workers.

I believe that the extension of fast-track by the administration is vital to making further progress in that respect. I think that if there are delays, not only does it delay progress, but it undermines the ability of the administration to project our economic values and our economic approaches around the world.

Senator MOYNIHAN. Mr. Chairman, you will not mind my commenting that you and I were saying that last spring.

The CHAIRMAN. That is absolutely correct, Senator Moynihan.

Senator MOYNIHAN. Right here, to Treasury.

The CHAIRMAN. To Treasury. I think it is a very important piece of legislation, Senator Moynihan, but the longer it gets delayed the more difficult it is going to be to get it done.

I would like to ask you, Mr. Geithner, the European Union will introduce, of course, a single currency, the Euro, in 1999. What does European Monetary Union mean for the U.S. in terms of our own monetary and economic policies?

Mr. GEITHNER. Thank you, Mr. Chairman. We at the Treasury have made quite a substantial investment in making sure we have the capacity to watch these developments in Europe closely and assess their implications for the United States and respond appropriately.

Our view has been for some time as a country that the United States had a great interest in seeing a strong, stable, integrated European economy, and that remains our view. I think that a successful EMU would pose no threat to the United States and it would be strongly in the interest of all of Europe's trading partners.

The CHAIRMAN. Mr. Gensler, some economists have suggested that there is a ceiling of 2.5 percent in healthy annual economic growth. You, of course, have had a lot of experience with financial markets, Asia in particular. Do you subscribe to a notion of a 2.5 percent ceiling?

Mr. GENSLER. Mr. Chairman, I believe that our economy today is quite strong, as we all know, with the lowest unemployment in close to a quarter century and relatively benign inflation, strong consumer confidence. I think this administration is committed to a strong economy and, with this Congress, has worked on strong fiscal policy and there is the help of strong monetary policy.

I think to the specific of your question of a ceiling, I think it is really largely dependent on what is driving growth. We have had periods in our own country here and a period when I was born and

raised in the 1950's and 1960's that we had strong growth in excess of 2.5 percent, with relatively benign inflation in that period.

So at the risk of being a bit optimistic, hopefully there is not necessarily a ceiling, but it is more dependent on whether that 2.5 percent growth is where it is coming from.

The CHAIRMAN. I like to hear people who are optimistic.

Senator MOYNIHAN. Do not feel like it is forbidden to be optimistic even though you are in the Treasury.

Mr. GENSLER. Thank you, Senator. Thank you.

The CHAIRMAN. Finally, let me ask you, Ms. Killefer. As you well know, being Chief Financial Officer of the Department of Treasury is an extremely critical position.

Budgetary challenges on the horizon include the ongoing IRS computer modernization plan, as well as the critically important year 2000 computer problems facing not only IRS, but all of the Treasury.

How do you address this problem, what do you think need to be done?

Ms. KILLEFER. Mr. Chairman, you are right that this is a critical issue across all of Treasury bureaus. It will reveal itself in its largest form, obviously, in IRS just because of the size of that agency and its dependency on technology, but it will be true of each one of the bureaus. It is also true in private industry, as I have experienced in working with my clients.

If confirmed, what I think we need to do, and I know Treasury has begun the process, is carefully outlining all of the needs. But I really think it takes senior management attention and will require constant vigilance.

I plan to hold weekly and bi-weekly updates for the Secretary on this issue, and we will be in constant conversation with this committee about where we stand in our efforts and the magnitude of the needs that we have.

I think this is going to be true across government, so I believe your vigilance on this issue is greatly needed.

Senator MOYNIHAN. Mr. Chairman, could I say it is true, but I do not think we have seen the response in the Federal Government that we need. Somebody down there might get it clear that by the time the year 2000 arrives, it is too late.

Ms. KILLEFER. In some of our agencies, by the time 1999 arrives it is too late.

Senator MOYNIHAN. Of course. Yes.

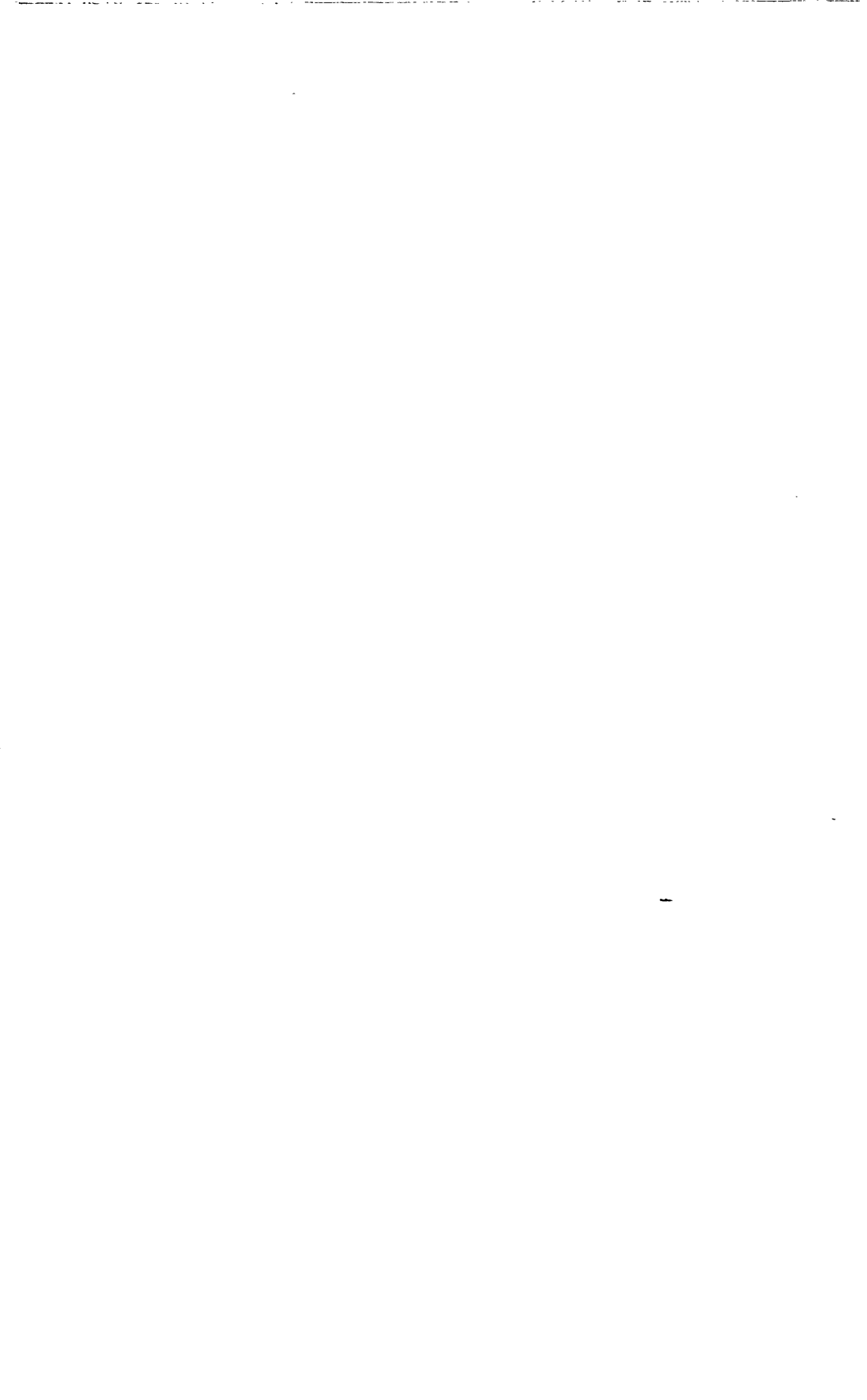
The CHAIRMAN. Thank you, Senator Moynihan.

Well, the hour is growing late. I want to thank each of you for being here today. I think you will face some very challenging, but fascinating, opportunities in the weeks and months ahead.

I particularly want to say what a pleasure it is to have the families, with so many young children. Thank you very much.

The committee is in recess.

[Whereupon, at 1:14 p.m., the hearing was concluded.]



APPENDIX

ADDITIONAL MATERIAL SUBMITTED FOR THE RECORD

PREPARED STATEMENT OF KENNETH S. APFEL

Mr. Chairman and Members of the Committee. I am honored to be the President's nominee for the critically important position of Commissioner of the newly independent Social Security Administration. I appear before you today to seek your support for my nomination and to discuss the key issues facing the Social Security program.

It is hard to overstate the importance of Social Security in improving the lives of Americans. Social Security has been the most successful domestic government program in our Nation's history. It has made a decisive difference in providing financial security for older Americans. The poverty rate among our 30 million older Americans today is 12 percent, down from more than 25 percent 30 years ago.

Social Security is also much more than retirement. Approximately 6 million disabled Americans and their family members, and 7 million surviving family members of deceased workers receive monthly Social Security benefits. The Social Security program has become America's family protection plan.

But Social Security is not immutable to change. As former HEW Secretary Wilbur Cohen said, "each generation should be free to remake and remold it to its needs and liking."

People need to realize that Social Security is, and always has been, an evolving program. In nearly each decade since its creation, major Social Security changes have been made in response to the needs of the time: disability insurance in the 1950s, Medicare in the 1960s, COLAs in the 1970s, and numerous changes in the 1980s as the result of the Greenspan Commission's work.

The changes made over the past decades reflect the Nation's changing needs. And now, further changes are needed if we are to meet the demographic challenges that face this Nation in the 21st century. The first and most critical challenge, of course, is to address the long-term solvency of the Social Security program while ensuring that current and future generations of America's citizens continue to be provided a floor of protection. It is a task worthy of our best efforts.

The very good news is that Americans are living longer, healthier lives. But increased life expectancies, coupled with the aging of the Baby Boom generation, will place great strains on America's retirement system. The Social Security trust funds will be exhausted in 30 years. At that point, revenues coming into the program will only account for approximately 75 percent of the expected benefit payments.

Clearly, tough choices must be made, and the sooner the better. We must act—not because we are in a crisis—but because if we act wisely we can prevent a crisis from ever occurring. The American people deserve early action to be able to plan for changes. And Americans of all ages need to have confidence that this important program will be there for them.

In all candor, Mr. Chairman, critical discussions about the future of the Social Security program need to take place not only in congressional hearing rooms, but also in family living rooms all across America. As Commissioner, one of my roles will be to help Americans understand Social Security today, so that they will be prepared to help make the tough choices to ensure the program will be there for them tomorrow.

I worked for Senator Bradley and with the Senate Finance Committee in 1983 when the historic Social Security reform legislation was enacted. It was an example of bipartisan cooperation, goodwill and wisdom. This Administration and this Congress have shown that they are capable of coming together in a bipartisan way to fashion solutions important to this Nation. If confirmed, I give you my commitment

that the Social Security Administration will be responsive to the needs of this Committee and that I will personally work closely with the members of this Committee in a bipartisan way on this important endeavor.

While the long-range solvency of the program is the most critical issue facing Social Security, it is by no means the only issue.

The Social Security and SSI disability programs have grown significantly. With the aging of the baby-boom generation, we can expect still further increases in the number of disability claims and the agency's workloads.

There are inherent administrative difficulties involved in judging health and work capacities of disability claimants. The agency has undertaken efforts in the last few years to redesign and modernize the decision-making process and to improve the consistency of the decisions rendered at all levels of the process.

I believe these efforts are a positive first step, but they are not sufficient to resolve all problems. I am personally committed to finding ways to better manage the system, to fairly review the eligibility of those on the rolls and to return a greater number of individuals with disabilities to productive employment. While we have done much to remove the barriers facing Americans with disabilities, I believe that we still have much to do to turn these advances into real opportunities for disabled beneficiaries to be productive members of our society.

Furthermore, I believe that the nation has a responsibility to provide children with disabilities and their families with the resources needed to prepare themselves for full participation in society. Towards that end, if confirmed, one of my first priorities will be to carefully review the Social Security Administration's implementation of the eligibility changes that were adopted last year to determine if the intent is being realized and if the regulations are being applied fairly.

In addition to the issues of long-range solvency and disability, however, is the management challenge—how to provide effective executive leadership for the Social Security Administration. The agency's independent agency status means that it now enjoys a higher public profile than it ever had during its many years within the Department of Health and Human Services. Independent agency status also means that closer liaison is needed with both the White House and with Congress to assure consistency of policy direction and accountability for actions taken by the agency. Insightful, decisive and effective leadership is needed to guide the agency in this expanded role.

Social Security touches the lives of nearly every American. For many people, the agency and its employees represent their closest contact with the Federal government. SSA has more than 1,300 offices across the country, and with its 800 number service, is as close as the nearest telephone.

More than 25 million Americans walk into SSA offices each year and more than 60 million call the 800 number. With the aging of the baby boomers, these numbers will increase dramatically. In order to improve customer service, SSA will have to rely on new technology and automation to meet the demands of the future. The agency will need leadership to take on these challenges, and if confirmed I will provide it.

In conclusion, let me say that I was deeply honored to be nominated by the President to guide Social Security into the 21st century. I appear before you today with humility to the task before us, but with the firm conviction that I am ready for the challenge. Mr. Chairman, I have spent my entire life preparing for this moment. My educational background is in social policy, rehabilitation and public management. I know the complexities of developing public policy from the years I spent working in the Senate and in the Executive Branch. I gained strong management and executive leadership skills during my tenures as Assistant Secretary for Management and Budget at HHS and as the Associate Director for Human Resources at OMB. But perhaps more significant, my wife and I are baby boomers with aging parents and young children; I know and understand the importance of Social Security to our society.

Henry David Thoreau once wrote that "it is not enough to be busy; the question is, what are we busy about?"

I thought long and hard about that quote after being nominated for this position. For me, there can be no higher calling, no more significant life's work than to guide the Social Security Administration into the next millennium and to help ensure economic security for future generations. I am ready and eager to begin that work and I ask each of you for your support of my nomination. Thank you.

The White House.

MAY 22 1997 19

To the

Senate of the United States.

I nominate

Kenneth S. Apfel, of Maryland, to

be Commissioner of Social Security for the term expiring

January 19, 2001. (New Position)

William J. Clinton

Office of the Press Secretary

For Immediate Release

May 23, 1997

**PRESIDENT NAMES KENNETH S. APFEL AS COMMISSIONER OF
THE SOCIAL SECURITY ADMINISTRATION**

The President today announced the nomination of Kenneth S. Apfel to serve as Commissioner of the Social Security Administration.

Kenneth S. Apfel, of Takoma Park, Maryland, has served since 1995 as the Associate Director for Human Resources at the Office of Management and Budget in the Executive Office of the President. Mr. Apfel's responsibilities include budget, policy and management review of all the human resource agencies of the Federal government, including the Social Security Administration, the Departments of Labor and Education, and elements of the Departments of Agriculture and Health and Human Services. Prior to his appointment at OMB, Mr. Apfel was Assistant Secretary for Management and Budget at the Department of Health and Human Services, where he served as the Department's senior budget official and chief financial officer. From 1989-1993, Mr. Apfel was legislative director to Senator Bill Bradley, and from 1982-1989, he was the Senator's chief staff person for federal social policy. Mr. Apfel also served a Presidential Management Internship at the United States Department of Labor and as committee staff for the United States Senate Budget Committee.

Mr. Apfel earned a Bachelor's degree from the University of Massachusetts, a Master's degree from Northeastern University, and a Master's in Public Affairs from the LBJ School of Public Affairs at the University of Texas. He is married to Caroline Hadley and has two sons, Derek and Dana.

The Social Security Administration manages the nation's social insurance program and administers the Supplemental Security Income program for the aged, blind and disabled. In 1996, approximately 144 million people made contributions to Social Security. At the end of 1996, 48 million received Social Security retirement, disability or survivors benefits or Supplemental Security Income benefits, about 1 in 5 Americans.

KENNETH S. APFEL

Kenneth S. Apfel is currently the Associate Director for Human Resources at the Office of Management and Budget in the Executive Office of the President, where he has served since 1995. His responsibilities include budget, policy and management review of all the human resource agencies of the Federal government, including the Social Security Administration, the Departments of Labor and Education and parts of the Departments of Agriculture and Health and Human Services.

Prior to his appointment at OMB, Apfel served as Assistant Secretary for Management and Budget at the U.S. Department of Health and Human Services. He was nominated by President Clinton in March 1993 and was subsequently confirmed by the U.S. Senate. In this capacity, Apfel served as the senior budget official and chief financial officer for HHS. He formulated and executed the third largest budget in the world -- a \$700 billion budget for a department staffed nationwide by 125,000 people, with half of HHS resources in support of the Social Security Administration. During his tenure, Apfel served as a principal on the Secretary's task force to elevate the Social Security Administration to independent agency status.

Before joining the Clinton Administration, Apfel had worked for the prior two decades in the area of social policy. From 1989-1993 he served as legislative director to Senator Bill Bradley, overseeing the formulation and development of all aspects of congressional policymaking. During 1982-1989, he was the Senator's chief staff person for federal social policy, with particular focus on programs under the jurisdiction of the Senate Finance Committee. He served as the Senator's key staff person for the Committee's actions on the historic 1983 Social Security reform legislation.

Between 1980-1982, Apfel was committee staff for human services, education, training and income security programs for the U.S. Senate Budget Committee. From 1978-1980, he served a Presidential Management Internship at the U.S. Department of Labor. He was a college administrator from 1973-1976 at Newbury College in Massachusetts, coordinating a grant from the Department of Health, Education, and Welfare to provide outreach and remediation to veterans.

Apfel was born in Worcester, Mass., October 12, 1948. He received his bachelor's degree from the University of Massachusetts, Amherst, 1970; a master's in rehabilitation counseling, Northeastern University, 1973; and a master's degree in public affairs from the LBJ School of Public Affairs, University of Texas, 1978.

Apfel is married to Caroline Hadley and has two children, Derek and Dana.

**SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

A. BIOGRAPHICAL INFORMATION

1. **Name(include any former names used):** Kenneth Stephen Apfel
2. **Position to which nominated:** Commissioner, Social Security Administration
3. **Date of nomination:** May 22, 1997
4. **Address (list current residence, office and mailing addresses):**
 Home- 7118 Cedar Avenue, Takoma Park, Maryland 20912
 Work- Office of Management and Budget, 260 Old Executive Office Building,
 Washington, DC 20503
5. **Date and place of birth:** October 12, 1948, Worcester, Massachusetts
6. **Marital status (Include maiden name of wife):** Married to Caroline Standish Hadley
7. **Names and ages of children:** Two sons: Derek Apfel (age 14) and Dana Apfel (age 11)
8. **Education (list secondary and higher education institutions, dates attended, degree received and date degree granted):**
 University of Texas at Austin, TX. 1976-78 M.P.A.(8/78)
 Northeastern University, Boston, MA. 1972-73 M.Ed (6/73)
 Univ. of Massachusetts at Amherst, MA. 1968-70 B.A.(6/70)
 Worcester Jr. College, Worcester, MA. 1966-68 A.A.(6/68)
 Shrewsbury High School, Shrewsbury, MA. 1962-66 (6/66)
9. **Employment record (list all jobs held since college, including the title or description of job, name of employer, location of work and dates of employment):**
 2/95-present Office of Management and Budget, Executive Office of the President,
 Washington, DC. Associate Director for Human Resources.
 3/93-2/95 US Department of Health and Human Services, Washington, DC.
 Assistant Secretary for Management and Budget.
 10/82-3/93 Senator Bill Bradley's Office: Washington, DC. Legislative Director
 1989-93 and Legislative Assistant 1982-88.

- 2-80-10-82 US Senate Budget Committee: Washington, DC. Budget Analyst for Human Resources.
- 6-78-2-80 US Department of Labor: Washington, DC. Presidential Management Internship.
- 6-77-8-77 Austin Community Mental Health Center: Austin, Texas. Internship.
- 8-73-6-76 Newbury College: Boston, Massachusetts. Director, Veterans Affairs Office.
- 6-73-8-73 Watertown Youth Center, Watertown, MA. Counselor.
- 1-73-6-73 Boston State Hospital, Boston, Massachusetts. Internship.
- 9-72-12-72 Massachusetts Department of Public Welfare, Boston, Massachusetts. Internship.
- 6-72-8-72 Tomlinson Builders, Amherst, MA. Laborer.
- 1-71-5-72 Firematic Sprinkler Co., Worcester, Mass. Production controller and shipper.

10. **Government experience (list all jobs held since college, including the title or description of job, name of employer, location of work and dates of employment):**
All government experience listed in #9 above.
11. **Business relationships (list all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution):**
None.
12. **Memberships (list all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable and other organizations):**
Old Town Takoma Civic Association (community association)
Sherwood Forest Club (community association)
Maryvale Elementary School PTA
13. **Political affiliations and activities:**
- a. **List all public offices for which you have been a candidate.**
None.
 - b. **List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.**
None.
 - c. **Itemize all political contributions to any individual, campaign, organization, political party, political action committee or similar entity of \$50 or more for the past 10 years.**
\$50 to Democratic National Committee- 9/88
\$50 to Democratic Senatorial Campaign Committee 9/88

\$50 to Democratic Senatorial Campaign Committee 10/89
\$2,000 to Bill Bradley for US Senate- 12/94

14. **Honors and Awards (list all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement):**
Phi Kappa Phi Honorary Fraternity: 1977
Phi Theta Kappa Honorary Fraternity: 1967
LBJ School of Public Affairs Merit Fellowships: 1976-78
15. **Published writings (list the titles, publishers and dates of all books, articles, reports or other published materials you have written):**
-Co-author of Policy Research Project on "The Transition of Public Service Employment Participants to Unsubsidized Employment", funded by the US Dept of Labor and carried out by the LBJ School of Public Affairs, Austin, Texas: 1977-8.
-Master's Degree Report, "Elderly Services in Austin: Policy Options for the City", LBJ School of Public Affairs, 1978.
-Co-author of Policy Research Project on "Alternate Care Services for the Elderly", funded by the Texas Dept. of Human Resources and carried out by the LBJ School of Public Affairs, Austin, Texas: 1976 - 1977.
-"Learning Experiences, Educational Reform, and Free Universities", Spectrum, UMass, vol. III, no. 3, 1970.
16. **Speeches (list all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with two copies of each formal speech):**
No formal speeches given over past five years; several short presentations have been made to various groups in my capacity as a senior official in the Clinton Administration and as a professional staff member for Senator Bradley.
17. **Qualifications: (state what, in your opinion, qualifies you to serve in the position to which you have been nominated).**
I have two and a half decades of experience in US social policy, including solid background in Social Security. I have served in senior executive positions in the federal government and understand the workings of both the Congress and the Executive Branch.

In my current capacity at the Office of Management and Budget, my responsibilities include budget, policy and management review of all the human resource agencies of the Federal government, including the Social Security Administration. I also served as Assistant Secretary for Management and Budget at the U.S. Department of Health and Human Services, the senior budget official and chief financial officer for the Department, with half of HHS resources at that time in support of the Social Security Administration. During my tenure, I served as a principal on the Secretary's task force to elevate the Social Security Administration to independent agency status.

Before joining the Administration, I served for many years as a professional staff member in the United States Senate, most recently as Legislative Director to Senator Bill Bradley. My primary policy responsibilities related to the social programs under the jurisdiction of the Senate Finance Committee. I served as Senator Bradley's principal staff person for the 1983 Social Security reform legislation. I also served as committee staff for human resource programs for the U.S. Senate Budget Committee under the Chairmanships of Senator Muskie and Senator Hollings.

Earlier in my career, I received a Presidential Management Internship at the U.S. Department of Labor and worked as a college administrator in Massachusetts. My academic background in social policy, public administration and rehabilitation help to prepare me for the management challenges as well as the aging and disability issues facing the Social Security Administration.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations or organizations if you are confirmed by the Senate? If not, provide details.
Not applicable. My only present connection is to OMB; this connection will be terminated immediately after confirmation.
2. Do you have any plans, commitments or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.
No.
3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.
No.
4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.
Yes. The Commissioner's full term runs through January 2001 (the next Presidential inaugural).

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.
None.
2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.
None.
3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.
None.
4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with two copies of any trust or other agreements.)
If anything I am currently unaware of is perceived to be a conflict of interest, I will take actions to resolve it, consistent with government ethics rules.
5. Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.
Copies of opinions will be provided directly to the Committee.
6. The following information is to be provided only by nominees to the positions of the United States Trade Representative and Deputy United States Trade Representative:
Have you ever represented, advised or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.
Not Applicable.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court,

administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No.

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.

No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

Nothing.

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes.

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes.

September 24, 1997

Honorable William Roth
Chairman
Senate Finance Committee
Washington, DC 20510


Dear Mr. Chairman:

Thank you for your consideration and support during my confirmation hearing before the Senate Finance Committee on September 10, 1997.

Enclosed herein are answers to the questions submitted for the record. Questions 1 through 3 were submitted by you and Questions 4 through 7 were submitted by Senator Moynihan.

I look forward to working with the Committee.

Sincerely,


Kenneth S. Apfel

cc: Honorable Daniel Patrick Moynihan
Ranking Minority Member
Senate Finance Committee

Question #1

Section 709 of the Social Security Act ("Recommendations by the Board of Trustees to Remedy Inadequate Balances in the Social Security Trust Funds") requires that whenever the Social Security Trustees "determine at any time that the balance ratio of [the Old Age, Survivors, and Disability Insurance (OASDI) Trust Funds] for any calendar year may become less than 20 percent, the Board shall promptly submit to each House of the Congress a report setting forth its recommendations for statutory adjustments ... necessary to maintain the balance ratio of such Trust Fund at not less than 20 percent...."

Please provide your interpretation of this provision. Do you believe that such recommendations are currently required of the Commissioner and the other Trustees given that the Trustees' latest report projects a balance ratio of less than 20 percent (i.e., insolvency) of the OASDI trust funds for many of the 75 years of the long-range actuarial estimate? What recommendations might you suggest be made to Congress to restore the balance ratio for each of these 75 years?

I understand that the working assumption and practice since enactment of the Section 709 requirement has been that the Board issued such reports only if the assets of the Trust Fund in question were estimated to become less than 20 percent of the annual outgo in the short term (i.e., within ten years). Since the Trustees already issue an annual report (required by section 201) on the short and long term status of the funds, an additional report on the balance ratio could cause, over time, the 709 report to lose its intended identity as a declaration of urgency.

Concerning recommendations to restore the balance ratio of the Trust Funds for each of the next 75 years, I would re-emphasize that it is premature for me to be making specific recommendations at this time. The first step in my opinion is the establishment of a mutually agreeable bipartisan process. The sooner we begin a bipartisan process, the sooner we will restore long term solvency and confidence in the system.

Question #2

Mr. Apfel, in April, the Chairman and other members of the Finance Committee called for shutting down Social Security's PEBES Online Internet page until a number of privacy and security problems could be fixed. PEBES Online certainly provided important information for financial planning, but was not worth the risk of disclosure of sensitive personal information. To its credit, the Social Security Administration quickly recognized the problem and acted on this request.

Last week, the Social Security Administration announced PEBES would again be on the Internet later this year – but with important changes. Social Security seems to have addressed many of the concerns raised earlier, but what kind of testing will Social Security undertake before it reopens this service?

The Social Security Administration from its earliest days has given the highest priority to protecting the confidentiality of the records it maintains. In fact, this was the subject of the first regulation ever issued by the agency, and is known within Social Security as "Regulation One".

The challenge confronting the Social Security Administration is to maximize the benefits of new technology and, at the same time, to protect the personal privacy of an individual's sensitive information.

It is my understanding that the Social Security Administration follows an established test protocol for all Internet transaction services, including the new modified version of Online PEBES now under development. This test protocol includes formal functional and operational testing and validation of the programs developed for Online PEBES. The test protocol includes additional rigorous testing by internal, Agency employees who actually use the system and by controlled groups of external users outside SSA at specific companies or organizations which have agreed to evaluate the system from a user perspective. In past tests, banks, libraries and public access Internet organizations have been test partners. SSA then conducts unannounced, staged testing on the full Internet without publicity to enable stress-testing of the system and a wider range of customer feedback.

Question #3

Mr. Apfel, as the new Social Security Commissioner, what are the first steps you would take related to management of the agency? What would you like to accomplish by the end of your term?

I have three initial management objectives which cut across SSA's functions.

The policy development process at SSA needs strengthening if SSA is to provide the necessary support to the American people, the President and the Congress to engage in a bipartisan process to address the future of the Social Security program. It is also a critical component to providing the necessary attention to the SSI program.

Another core management objective concerns updating the use of technology and the use of innovative technology as it becomes available to provide customer-responsive, world class service. The demographic changes in our Nation require that this receives attention from the highest level of SSA. Workloads will be increasing in the new century. If the technological basis for addressing these changes is not laid in the next few years, then it will be quite difficult for SSA to meet these challenges.

Lastly, the disability program needs attention. As Commissioner, I will begin a detailed review of the disability redesign and its implementation because this is one of critical components to reduce the backlog in disability processing.

Each of these three objectives are critical for SSA not only for the next few years but also for the next century.

Question #4

Do you consider the regulations and process implementing the changes in SSI eligibility for disabled children to be consistent with the congressional intent of "fine-tuning" the program?

I know that the interpretation of this bill was controversial and some Members disagreed with it. Some read the legislation to be more, or less, restrictive than the interim regulations. I understand that SSA is reviewing the comments on the regulations and if confirmed, I will look very closely at that review and analysis. I plan to monitor the effect of these regulations very carefully to make sure that they are in keeping with Congressional intent as expressed in the statute and legislative history. I will not hesitate to take remedial action if it is warranted and within the authority of SSA. SSA must, however, follow the law as written.

I am greatly concerned with the issues that have been raised concerning the implementation of this law. In particular the reported variations between States in the proportion of children denied benefits, and the examples of obvious errors in case determinations cited in the media are troubling. As I indicated at my confirmation hearing, I will ask SSA to do a thorough review of this issue within the first 30 days of my tenure. I will use that information as a basis for taking corrective action. I can assure you that I am extremely concerned that this law be administered fairly and this will be my first priority as Commissioner.

Question #5

We have seen state-by-state figures from SSA on the termination of SSI benefits for children as last year's law is implemented. Could you provide similar data on the basis of race and ethnic origin?

I understand that SSA maintains some data on race in their archival data files, but that this data is not routinely compiled. I do not believe that SSA collects data on ethnic origin. As Commissioner, I will ensure that any data that can be provided will be provided.

Question #6

As part of your promised 30-day review of the implementation of the SSI for disabled children changes, will you address the system of quality assurance? Does it provide adequate information on whether eligibility redeterminations are based on adequate documentation of the child's disability?

I understand that SSA's quality assurance activities do provide information on whether a case was properly developed under SSA's rules as well as information as to whether the reviewer agreed with the ultimate decision to allow or deny the case. However, I certainly intend to include the quality assurance system in the overall review of the issues surrounding the implementation of the changes to the childhood disability policy. The quality assurance system must be effective in bringing to light systemic problems so that these problems can be corrected. While the role of quality assurance will be included in the 30-day review and analysis, given the size and complexity of this issue, it may take longer than 30 days to fully address it.

Question #7

I understand that fewer parents than projected are appealing the termination of SSI benefits received by their children. What steps has SSA taken to ensure that parents who wish to appeal are aware of their rights to do so?

Data compiled through the first week in September show that about one half of parents of children whose 60-day period to file an appeal has expired, have filed appeals. I understand that this figure is comparable to other similar workloads, such as continuing disability reviews where current eligibility is proposed to end.

SSA has issued revised instructions and clarified notices to ensure that parents fully understand their rights. I believe, however, that this issue should be looked at again, specifically for those children who were denied before these improvements were put into place and who have not pursued appeals. I intend to include this issue in the analysis I will ask SSA to complete and to take additional action if needed.

Grassley Questions 1 and 2

As the population begins to age, the number of people receiving retirement and survivors benefits will grow dramatically in the near future. As these numbers will be increasing, the ratio of contributing workers to beneficiaries will be declining. The end result is that the program will not be able to pay all benefits after 2029. In 2012, however, incoming payroll taxes will not cover beneficiary payments.

Some of the Advisory Council proposals would reduce Social Security's role as a social insurance program, in part, in order to achieve higher returns on retirement investments. What is your view of the appropriate role of the federal government in providing social insurance in the 21st century?

Should Social Security be transformed from a pay-as-you-go system to a fully-funded system?

As I mentioned in my statement, Social Security has been the most successful government program in our Nation's history. It has made a decisive difference in providing financial security for older Americans. It is much more than an investment program for retirement and has truly become America's family protection plan.

But Social Security is not unchangeable. In nearly every decade since its creation, major Social Security changes have been made in response to the needs of the time. As Wilbur Cohen said, "Each generation should be free to remake and remold it to its needs and to its liking." Changing Social Security to a fully-funded system is one proposal that could be considered as part of the process of addressing the long range solvency problems faced by the program. There are very serious tradeoffs to all of the proposals under consideration, including those that advance fund the system. These tradeoffs need to be carefully reviewed prior to making any changes.

These kinds of questions--the appropriate role of the federal government in providing social insurance in the future and the appropriate kind of financing system--are issues that need to be addressed on a bipartisan basis. It would be premature for me to make specific recommendations at this time. The first step, in my opinion, is the establishment of a mutually agreeable bipartisan process. The sooner we begin a bipartisan process, the sooner we will restore long term solvency and confidence in the system.

Grassley Question 3

Results from annual surveys conducted over the past several years show that public confidence in Social Security is low; people do not believe that Social Security will be there for them when they retire. What actions can the agency undertake to increase and sustain confidence in the program?

Public confidence will be high once the program has been placed on a more stable financial footing. Only if the public's understanding of the issues is clear, can the American political process work to resolve the long term financial issues. As head of the Social Security Administration I intend to be part of that debate and can assure you that the agency and its expertise will be available to educate the public about the program and the challenges we face.

Social Security is the most successful domestic program in the nation's history. Yet it is true that the most recent survey by the American Council of Life Insurance shows that only 39 percent of those surveyed say they are confident about the future of the Social Security system.

At the same time, public opinion surveys consistently show that between 80 and 90 percent of Americans agree with the statement that "Social Security is vital to the financial security of older Americans." And public opinion surveys by the American Association of Retired Persons show that nearly 90 percent of Americans support the goals of the program.

The dichotomy between strong public support and lack of public confidence has been studied by the National Academy of Social Insurance. They believe that public understanding needs to be enhanced "so that public support and confidence can become more aligned."

That is our goal . . . and it is an important one. Public education is a paramount concern of mine. I believe it is the first step we need to take in our endeavors to restore long term solvency.

Grassley Question 4

SSA is currently facing its most critical systems challenge: the urgent need to complete Year 2000 information systems compliance. Compounding SSA's Year 2000 effort is the need to ensure that its systems interfaces and data exchanges with thousands of private businesses and federal and state agencies, are also Year 2000 compliant.

Recently, during a briefing conducted by the GAO regarding the progress of the SSA in ensuring that its information systems are Year 2000 compliant--it became abundantly clear that SSA will not be ready in time. Could you tell us what contingency plans you will implement immediately to ensure that a "crash" is avoided as we enter the 21st century?

It is my understanding that SSA has been actively working on the Year 2000 problem and has made significant progress. The SSA initiative has been underway since 1989 and the master schedule provides that all systems will be converted by December 1998. As of August 31, 1997, 79% of mission-critical software slated to be repaired was already renovated, validated and implemented.

The plan is for all of SSA's mission-critical software, including state DDS Case Processing applications for which SSA has assumed responsibility, to be certified as Year 2000 compliant and implemented by January 1999. This will give SSA a year to run Year 2000 compliant software in production and conduct post-implementation reviews.

I agree that data exchanges are very important, and, upon confirmation, I will ensure that there is expeditious completion of Year 2000 compliance coordination with all data exchange partners.

It is centrally important to me to make sure that SSA systems are year 2000 compliant. If confirmed, this will be one of my most important priorities.

Grassley Question 5

The Office of Program and Integrity Reviews (OPIR), was recently criticized by the SSA Inspector General for poor management controls and a lack of policies and procedures needed to ensure accountability for special studies.

OPIR has a staff of 1,500 and spends \$90 million annually. Its function is to evaluate and assess the integrity and quality of SSA's programs. During a meeting with the Aging Committee, the independent consultants that were hired by SSA to examine OPIR (Riso and Riso) confirmed much of the OIG's findings with regard to the operation and activities of OPIR, noting that OPIR failed to properly document studies, failed to document the value of its work and utilized imperfect standards. In addition, we were advised by the consultants that SSA has several other programs that perform the same or similar functions to that of OPIR.

With this information in mind, do you plan to review these duplicative programs? Can we count on you to do away with government duplication and waste by eliminating, consolidating or doing whatever it takes to run a viable evaluation program?

How do you intend to address the problems identified by the Inspector General in order to boost confidence in OPIR's work? Can you give us a time frame within which you will accomplish this task?

I believe it is important that SSA have a strong evaluation and assessment operation under its direct control, as well as a strong and independent Inspector General.

OPIR provides continuous invaluable support evaluating and assessing the integrity and quality of the programs administered by SSA, including day-to-day monitoring of service delivery and special studies intended to meet specific needs. OPIR studies are often "predecisional" in nature and OPIR studies provide "early warnings" which can head off potential problems.

The Inspector General Act, by contrast, mandates audits and investigations to promote efficient and effective program administration. The Inspector General's mission is directed at the detection and prevention of fraud, waste and abuse. The IG focus is on oversight through a search for weaknesses in internal

controls. The IG also has unique reporting responsibilities, serving both the Congress and the agency head. In its report, Riso & Riso concluded that the key to resolving the issue of conflicts in OIG and OPIR roles and responsibilities is for both parties to accept that neither has an exclusive claim to jurisdiction over the pursuit of inefficiency, waste and abuse. Both organizations have legitimate roles in assessing Agency activities and both provide critical information to combat waste and abuse in our programs.

The concept of internal assessment units along with an OIG is customary in other Federal agencies. Some degree of overlap is inevitable and not unusual in these circumstances.

I believe that OPIR's special studies are a reliable tool for Agency management. It is clear that there is room for improvement. OPIR needs to renew its focus on management control by refining its existing tracking systems to provide more detailed and comprehensive management information on study issues and status. In addition, OPIR needs to document its standards in the form of a written guide which addresses from start to finish all aspects of study conduct.

I believe that the IG, OPIR and other appropriate components of SSA must join together in an effort to more clearly define their respective roles and responsibilities, and to establish a coordinated set of evaluation plans. If confirmed, I plan to take steps along these lines.

Grassley Question 6

SSA has been criticized for not undertaking the policy and research activities needed to respond to critical issues facing its programs, such as long-term financing and disability issues. SSA has only recently begun to take steps to address this problem. As a result, SSA has not positioned itself to provide policy makers with information needed to make key decisions.

What steps do you plan to take to ensure that SSA is well-positioned to provide the information necessary to support policy makers in even the most controversial issues?

I intend to make strengthening SSA's policy and research components one of my first priorities. The agency needs a stronger policy-making process to ensure greater coordination and consistency in addressing the many issues with which it must deal in the next few years. I agree with the overall thrust of the recent report of the Social Security Advisory Board and I will take steps to strengthen SSA's policy presence in both Baltimore and Washington.

SSA had begun to address this problem before I became Commissioner and I will be reviewing the adequacy of these actions. The Agency established a new Office of Policy and Planning headed by an Associate Commissioner with extensive policy experience in social security programs to furnish broad leadership in the areas of policy analysis, policy integration and policy planning. This is a start on what needs to be done.

I believe that SSA should pursue the development of a policy and research consortium with a group of universities to stimulate coordinated research and analysis in critical areas of SSA policy. SSA also needs to explore the development of micro-simulation models to assist in the analysis of complex policy proposals such as those proposed to address long-range solvency.

Grassley Question 7

In Iowa the percentage of children who were getting SSI and who have had their benefits terminated is pretty high. While the national average rate of termination is 58%, in Iowa it's 76%. That concerns me greatly.

I have promised to conduct a top-to-bottom review of the implementation of the provisions changing the standard of disability for children's SSI benefits. Included in that report will be an analysis of state variances. Some of these variances can be explained. Others cannot. If remedial action is necessary, it will be done.

Among States there are differences in termination rates. These differences can be due to several factors including the age and medical condition of children being redetermined, and the basis and level of review at which the case was originally allowed. These factors vary greatly from State to State and might be contributing to the observed differences.

Differences in rates can also be attributable to different approaches in processing workloads. For example, some States screened through their workloads to identify obvious continuances and worked them first resulting in higher continuance rates in the earlier stage of case processing. Not all states conducted this initial screening.

Grassley Question 8

How do you explain the low percentage of appeals? Only 44% of families are appealing terminations.

Data compiled through September 6, 1997 show that about one half of parents of children whose 60-day period to file an appeal has expired, have filed appeals. I understand that this figure is comparable to other similar workloads, such as continuing disability reviews, where current eligibility is proposed to end.

SSA has issued revised instructions and clarified notices to ensure that parents fully understand their rights. I believe, however, that this issue should be looked at again, specifically for those children who were ceased before these improvements were put into place and who have not pursued appeals. I will include this issue in the top-to-bottom review of the SSI childhood implementation and, based on the results of this review, I will take additional action if needed.

Grassley Question 9

How do you explain the fact that in cases that are appealed, benefits are reinstated 72% of the time?

As I understand it, the "reinstatement" rate is artificially high because it reflects very early results that include an abnormally large proportion of favorable decisions. When the State agency that makes disability determinations receives a request for reconsideration, it first reviews the file to see whether the case should be continued based on the evidence in the file.

If the State agency is unable to make a favorable decision on this so-called "paper review," the child and his or her family are offered an opportunity for a face-to-face hearing in the State agency. These hearings take much longer to process, and very few have been held to date. Early reconsideration data consisted almost entirely of favorable decisions based on this paper review. As disability hearings are held in larger numbers, the reversal rate may fall.

Grassley Question 10

Why are 56% of the terminated families who did not appeal for some reason? Aren't there potentially 72% of those families (44,813 kids) who might have been reinstated?

Although the appeal rate is consistent with traditional rates for comparable workloads, I will include a complete review of this issue in the top to bottom review of SSI childhood disability determinations. Based on that review, I will take additional actions as warranted.

Note that the "reinstatement" rate of 72% is to some extent artificially high because favorable decisions are processed more quickly. This rate had already dropped to 64% by September 6, 1997.

Moynihan Question 1

The Social Security Administration, like many other Federal agencies, faces enormous technology related problems from the Year 2000 computer problem to privacy concerns related, for example, to the use of the Internet for obtaining personal benefit and earnings information.

How would you propose to deal with these technology related problems? And how do you recruit and train the personnel needed to run these computer systems?

The Social Security Administration plans to have all its systems Year 2000 compliant by the end of 1998. This will give the agency a full year for contingency purposes. SSA is working not only with all State Disability Determination Services to ensure completion of Year 2000 computer compliance but also with all of their data exchange partners.

While the Year 2000 and internet related privacy issues pose rather unique challenges, SSA needs to deal with them as it would any other technology related challenge. SSA must make sure sufficient resources are provided to maintain a well trained systems staff with the necessary technological skills. The agency also must make use of private sector expertise, as necessary, to complement its in-house staff.

I understand that SSA has an ongoing systems training program that provides a variety of opportunities for staff to refresh and continually develop necessary skills. These include rotational work assignments, training in new technical disciplines, and participating in graduate training programs. To date, over 100 SSA staff have earned Master of Science degrees in computer technology from the Johns Hopkins University, the University of Maryland and Loyola University through SSA's graduate level training program. The agency also maintains a number of support services contracts with private vendors. This allows SSA to supplement in-house expertise and to acquire specialized skills that are not readily available in-house.

I am fortunate to have a very competent in-house systems staff at SSA. In some areas (e.g. Year 2000 conversion activities and data center management), SSA is recognized as a technology leader in the Federal sector, as well as in the private sector.

Rockefeller Question 1

I am troubled by reports from advocates and parents that the Administration imposed the most stringent, severe eligibility standard possible for SSI children, and wonder why?

When the Congressional Budget Office estimated the effect of this new law, it projected that as many as 180,000 children would lose their benefits as a result of the stricter definition of disability for children.

When it promulgated its regulations last February, SSA estimated that about 135,000 would lose benefits because of the definition. I understand that the results of the redetermination so far indicate that SSA's estimate will be close to the actual results.

The regulations appear to me to generally reflect congressional intent but I have not yet examined the comments from the public on the interim regulations on the eligibility standard.

I want to assure the Members of this Committee that one of my first goals will be to ensure that the new definition of disability for children is implemented fairly and equitably. I also commit to carefully review all public comments prior to issuing final regulations.

The children affected are among the most vulnerable in the nation and deserve nothing less.

Rockefeller Question 2

I am troubled by reports that families in West Virginia and across the country were not fully advised of their rights for appeals of their cases, and wonder why?

This issue will be included in the top-to-bottom review of the SSI childhood disability determination implementation. Since July 1997, SSA has issued at least 2 reminders to its adjudicators emphasizing that each individual must be informed fully of his or her due process rights. But issues have been raised that need to be examined that some individuals may not have received accurate information regarding their appeal rights.

I commit to you that I will look closely at this issue. If the top-to-bottom review indicates that remedial action is warranted in this area, I can assure that I will make corrections.

Rockefeller Question 3 and 4

How can we ensure fairness nationwide for disabled children and SSI benefits? How can we double check terminations in States that are exceedingly high?

Prior to the initiation of the top to bottom review, SSA had already implemented a heightened quality review of childhood disability cases to ensure decisional accuracy and consistency under the new law and regulations. The goal of this approach was to assure uniformity throughout the country.

Given the differences in termination rates among states, it may very well be that further steps need to be taken. While I do not want to prejudice the outcome of my top-to-bottom review, we may need to review some decisions made in certain States.

Nickles Question 1

Beginning in FY 2000, the Social Security Administration will begin sending the Personal Earnings and Benefit estimate Statements (PEBES) to every eligible worker. This statement is estimated to reach 123 million Americans.

Since this is one of the most valuable tools in educating Americans about their retirement income, do you believe that it effectively communicates the most accurate and useful information available to future retirees?

I know that SSA developed the PEBES as a very important tool that workers can use to assure that their Social Security record is complete and accurate, to help them understand the full range of protection that Social Security provides, and to give them benefit estimates that they can use in planning for their financial future. I think it generally does these things effectively, but there is a always room for improvement.

The personal data and explanatory information provided on the form evolved from SSA's experience with the questions they are most frequently asked. Prior to the PEBES' introduction in 1988 and several times since then, SSA has subjected the statement to focus-group testing and mail surveys to get public input into both the format and content. Thus, PEBES recipients continue to help modify the statement to make it more usable and responsive to their needs.

Nickles Question 2

Do you have any suggestions on ways to improve the PEBES?

There is always room for improvement in a document like the PEBES. I know that SSA constantly reviews it for necessary changes and receives many employee and public suggestions for modifications.

In 1996, the General Accounting Office (GAO) audited the PEBES and found it a useful document for the public. However, they were highly critical of the complexity of the form and the volume of information it tries to convey. GAO recommended a number of changes to simplify the PEBES and make it easier to read and understand.

I know that SSA is currently redesigning the PEBES form to incorporate GAO's recommendations. I understand that here again the various redesign options are being tested with the public through focus groups and a mail survey. The current plan is to introduce the redesigned form in FY 2000 when annual PEBES issuance is implemented for all eligible workers.

Nickles Question 3

The taxpayer-financed Report of the 1994-1996 Social Security Advisory Council cited data projecting that workers with average earnings who were born after 1955 can expect to receive Social Security benefits that represent an average annual real rate of return of between 1.38 percent and 3.85 percent. The Council states that the historic real rate of return on private investment is 7 percent. All of the recommendations of the Advisory Council included reforms which depended on the use of the private market in order to secure the future solvency of Social Security while maintaining current benefits.

With that in mind, what is your view on including information on the PEBES regarding the rate of return of a worker's Social Security taxes and information on the historical rate of return in the private market?

Do you agree that it would serve working Americans well to have some context in which to judge the rate of return on their Social Security taxes?

I think the intended uses of the PEBES should be kept in mind. In line with GAO's recommendations, redesign efforts generally should move toward a simpler, easier-to-read, less detailed PEBES format for recipients of all ages, economic levels and educational backgrounds. I believe that adding personal and historical rate-of-return information--and the detailed explanations necessary to make that information understandable to large segments of the PEBES audience--would be counterproductive to this effort. Financial planning would not be enhanced.

I recognize that the rate of return on Social Security taxes may be a major element of the coming public debate on the future of Social Security. However, there is as yet no consensus that a social insurance program such as Social Security can or should be judged on the same basis as private investments. Until the debate resolves that issue, I do not believe the PEBES is an appropriate vehicle for providing the information you mentioned.

Nickles Question 4

Section 709 of the Social Security Act stipulates that whenever the Board of Trustees determines at any time that the balance ratio in Social Security (or Medicare) Trust Funds in any year may become less than 20 percent, "the Board shall promptly submit to each House of the Congress a report setting forth its recommendations for statutory adjustments affecting the receipts and disbursements of cash Trust Fund necessary to maintain the balance ratio of Trust Fund at not less than 20 percent." Please provide your interpretation of this language, with emphasis on whether you believe that such recommendations are currently required of the Commissioner and the other Trustees as a consequence of the Trustees' latest projections regarding the solvency of the funds referenced in section 709.

I understand that the working assumption and practice since enactment of the Section 709 requirement has been that the Board issued such reports only if the assets of the Trust Fund in question were estimated to become less than 20 percent of the annual outgo in the short term, defined as within ten years. Since the Trustees already issue an annual report, required by section 201, on the short- and long-term status of the funds, an additional report on the balance ratio could cause, over time, the 709 report to lose its intended identity as a declaration of urgency.

Nickles Question 5

It is my understanding Social Security will begin paying out more than it takes in by the year 2012 and is expected to be exhausted by 2029. What are your recommendations to keep Social Security solvent?

As I mentioned at the hearing, it is premature for me to be making specific recommendations at this time. The first step in my opinion is the establishment of a mutually agreeable bipartisan process. The sooner we begin a bipartisan process, the sooner we will restore long term solvency and confidence in the system.

Part of that process must include the American public's participation in the upcoming debate. The options must be discussed by all Americans. The tough choices will necessitate full engagement of all our constituents. I intend to be part of that debate and to help bring the debate to the public.

Graham Question 1

I am looking forward to working with you and the Social Security Administration to help Americans prepare for their years in retirement. I envision the need to reach out to the younger generation, as soon as they begin their careers and reinforce the need for personal savings and careful planning. What role do you envision the SSA taking to accomplish this?

SSA has always emphasized the fact that Social Security is intended to be part of a "three-legged stool" on which individuals can build a comfortable retirement. The other two "legs" of that stool are pensions and savings.

Unfortunately, individual savings are far below what they should be. And more businesses are establishing defined contribution plans instead of defined benefit plans. This makes it more difficult for a worker to intelligently plan his or her financial future.

I believe that SSA, in concert with the Departments of Labor and Treasury, needs to do a better job in educating people on the importance of retirement planning. I don't have yet concrete suggestions on how to do this, but I look forward to working with the Senator from Florida on how to accomplish this goal.

I believe that the Personal Earnings and Benefit Estimate Statement SSA will send all workers age 25 and older beginning in FY 2000 is an excellent start. The Statement will provide workers with a record of their earnings history and an estimate of how much they have paid in Social Security taxes, as well as estimates of benefits they and their families may be eligible for now and in the future.

The PEBES will make clear to younger workers in very personal financial terms the fact that Social Security is only a foundation for retirement planning and that they will be expected to supplement this income with savings, investment or pension income.

Graham Question 2

Disability benefits are of vital importance to workers who become disabled and are unable to provide for themselves and their families. My office receives many complaints from Florida residents because their claims for disability benefits take so long. What is SSA doing about streamlining the process to prevent inordinate delays in making timely decisions on their applications?

SSA is engaged in a long term endeavor to redesign the disability process to make better use of technology, eliminate fragmentation and duplication, and promote more flexible use of resources. It is expected to significantly reduce the time and resources needed to process disability cases through the hearing stage. This will be one of my highest priorities if confirmed by the Senate.

The ultimate goal is to transform the disability program into a program that works better and costs less. Specific goals of the process are: providing a user-friendly process for claimants and those who assist them, allowing claims that should be allowed at the earliest possible level, making and effectuating decisions quickly, developing an efficient process by reducing the administrative appeals steps, and providing employees with a satisfying work environment.

Eliminating the delays will not be easy. We may need to take further actions in this area. But I am fully committed to providing quality in both of the programs that SSA administers and the services it delivers. Efforts to streamline the disability process must be aimed at significantly improving service delivery in the disability claims area and reducing the delays that claimants have unfortunately experienced.

PREPARED STATEMENT OF NANCY-ANN MIN DEPARLE

Mr. Chairman, Senator Moynihan, and Members of the Committee, my name is Nancy-Ann Min DeParle, and I am honored to be here today as President Clinton's nominee to be the Administrator of the Health Care Financing Administration at the Department of Health and Human Services. I would like to introduce my husband, Jason DeParle, who is with me this morning.

For more than three decades, Medicare and Medicaid have met the basic health care needs of elderly, disabled, and low-income Americans. Today, one in every four Americans relies on these important programs. The focus of the Health Care Financing Administration must be to work with the Congress, the States, and our provider partners to ensure that Medicare and Medicaid are strong and well-managed. This will be my goal as Administrator.

Working together, Congress and the President have set the agenda that will help us achieve this goal. Last month, in a spirit of bipartisanship, Congress enacted the Balanced Budget Act, which took an important first step to reform Medicare, strengthen Medicaid, and establish a ground breaking new children's health program. It is with this same bipartisan and cooperative spirit that we plan to work with the Congress and our stakeholders in implementing this major legislation.

With respect to Medicare, the law changes many of our payment methodologies to make them more efficient and competitive, and less susceptible to abuse. It offers beneficiaries important new preventive benefits and new health plans from which to choose. It begins to address the short-term challenges faced by Medicare, extending the life of the Trust Fund for ten years. And it establishes a Bipartisan Commission on the Future of Medicare to develop long-term solutions to meet the challenges of the baby boom generation. The changes embodied in the Balanced Budget Act are the most significant so far in Medicare's history. Now their successful implementation will be one of my top priorities.

Another top priority is to implement the new State Child Health Insurance Program, which represents our country's commitment to reduce the number of uninsured children. We must be sure that this new program is integrated with Medicaid and other state child health programs. And we must ensure that it reaches eligible children with the right balance of Federal standards and State Flexibility. This will be a major challenge to which I am very committed.

And finally, we must continue—and sharpen—our focus on fraud, waste, and abuse in Medicare and Medicaid. The Balanced Budget Act gave us some new weapons to use that fight, but it is clear that we must become even more aggressive in our program integrity efforts. Tougher oversight will protect taxpayers' money. It will increase public confidence and guard the Trust Fund. And it is the right thing to do.

Mr. Chairman, if confirmed by the Senate, I will bring to this effort the knowledge, management skills, and perspectives I have gained in State and Federal Government, and in private law practice. I am a graduate of the University of Tennessee and Harvard Law School, and I hold a master's degree in politics and economics from Oxford University, which I attended as a Rhodes Scholar. As you know, from 1987 to 1989, I served as the Tennessee Commissioner on Human Services, where I administered a budget of \$500 million and managed 6,000 employees. And from 1993 to July of this year, I served as Associate Director for Health and Personnel at the White House Office of Management and Budget, where I oversaw budget and policy issues relating to all Federal health programs.

Those who have worked with me in the past, including the Members and staff of this Committee, know that I believe the country—and our program beneficiaries—are best served through bipartisan collaboration. If confirmed, I intend to work closely with this Committee, and the Congress, to achieve our mutual goals of strengthening Medicare and Medicaid, and ensuring that the best possible care is delivered in the most efficient manner to our beneficiaries.

The White House,

JUN 27 1997

19

To the

Senate of the United States.

I nominate

Nancy-Ann Min Deparle, of

Tennessee, to be Administrator of the Health Care Financing
Administration, vice Bruce C. Vladeck.

William J. Clinton

DRAFT

DRAFT

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

June 27, 1997

**PRESIDENT NAMES NANCY-ANN MIN DEPARLE AS ADMINISTRATOR OF THE
HEALTH CARE FINANCING ADMINISTRATION AT THE DEPARTMENT OF
HEALTH AND HUMAN SERVICES**

The President today announced his intent to nominate Nancy-Ann Min Deparle to serve as Administrator of the Health Care Financing Administration at the Department of Health and Human Services.

Nancy-Ann Min Deparle, of Rockwood, Tennessee, has served since 1993 as the Associate Director for Health and Personnel at the White House Office of Management and Budget, where she is responsible for budgetary oversight and policy matters relating to all Federal health programs, including Medicare, Medicaid, veterans' programs, and Federal employee compensation and personnel practices. From 1987 to 1989, Ms. Deparle served in the Cabinet of then-Governor Ned McWherter of Tennessee as his Commissioner of Human Services, where she administered a 6,000 employee agency with a \$500 million budget that provided welfare, rehabilitation, and social services. In addition, she was an Associate at the Washington, D.C. law firm of Covington & Burling, and was a Partner at Bass, Berry & Sims in Nashville, Tennessee. In 1994, she was named by *Time* as one of "America's 50 most promising leaders age 40 and under." Ms. Deparle received a B.A. from the University of Tennessee, an M.A. degree from Oxford University which she attended as a Rhodes Scholar, and a J.D. degree from Harvard Law School.

The Health Care Financing Administration (HCFA) is responsible for administering the nation's Medicare program, the Federal portion of the Medicaid program, and related quality assurance activities. The Administrator of HCFA manages the Agency, coordinates policy development and interpretation, formulates program goals, and evaluates policy changes in terms of program effectiveness. The Administrator of HCFA serves as the Administration's primary spokesperson on these issues.

-30-30-30-

**SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)

My name is Nancy-Ann Min DeParle. Before I married on March 22, 1997, my name was Nancy-Ann Min.

2. Position to which nominated:

Administrator, Health Care Financing Administration (HCFA).

3. Date of nomination:

My nomination was forwarded to the Senate on June 27, 1997.

4. Address: (List current residence, office, and mailing addresses.)

Residence: 1707 S Street, N.W.
Apartment B
Washington, D.C. 20009

Office: Office of the Deputy Administrator
Health Care Financing Administration
200 Independence Avenue, S.W.
Room 314-G
Washington, D.C. 20201

5. Date and place of birth:

I was born in Cleveland, Ohio, on December 17, 1956.

6. Marital status: (Include maiden name of wife or husband's name.)

I married Jason DeParle on March 22, 1997.

7. Names and ages of children:

None.

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

High School: Rockwood High School, Rockwood, Tennessee
 September 1970-June 1974
 Received diploma June 1974

College: University of Tennessee, Knoxville, Tennessee
 September 1974-June 1978
 Received Bachelor of Arts degree June 1978

Graduate School: Balliol College, Oxford University, Oxford, England
 September 1979-June 1981
 Received Bachelor of Arts degree in June 1981; Master of
 Arts conferred in 1986

Harvard Law School, Cambridge, Massachusetts
 September 1978-June 1979 (interrupted studies to attend
 Oxford University)
 September 1981-June 1983-
 Received J. D. degree June 1983

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

Staff Assistant to Joseph Ebersole, Deputy Director
 Federal Judicial Center
 Washington, D.C.
 June 1978-September 1978

Summer Associate
 Sewell & Riggs
 Houston, Texas
 June 1979-July 1979

Staff Assistant
Office of Sarah Weddington, Assistant to the President for Political Liaison
The White House, Washington, D.C.
July 1979-October 1979

Staff Assistant
Office of Sarah Weddington, Assistant to the President for Political Liaison
The White House, Washington, D.C.
June 1980-October 1980

Summer Associate
Miller & Martin
Chattanooga, Tennessee
July 1981-August 1981

Research Assistant to Professor Clark Byse, Byrne Professor of
Administrative Law
Harvard Law School
Cambridge, Massachusetts
October 1981-June 1982

Summer Associate
Hale & Dorr
Boston, Massachusetts
June 1982-July 1982

Summer Associate
Bass Berry & Sims
Nashville, Tennessee
July 1982-August 1982

Judicial Clerk to the Honorable Gilbert S. Merritt
United States Court of Appeals for the Sixth Circuit
Nashville, Tennessee
September 1983-October 1984

Get-Out-the-Vote Coordinator
Tennessee Democratic Party
Nashville, Tennessee
October 1984-November 1984

Associate
Bass, Berry & Sims
Nashville, Tennessee
November 1984-January 1987

Commissioner, Tennessee Department of Human Services
Nashville, Tennessee
January 1987-October 1989

Associate
Bass, Berry & Sims
Nashville, Tennessee
October 1989-September 1990

Adjunct Professor
Vanderbilt Law School
Nashville, Tennessee
January 1990-June 1990 and January 1991-June 1991

Partner
Bass, Berry & Sims
Nashville, Tennessee
September 1990-September 1991

Associate
Covington & Burling
Washington, D.C.
September 1991-February 1993

Associate Director for Health & Personnel
Office of Management & Budget, The White House
Washington, D.C.
February 1993-July 1997

Deputy Administrator
Health Care Financing Administration
Washington, D.C.
July 1997-present

10. **Government experience:** (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)

While serving as Commissioner of Human Services in Tennessee, I was appointed by the Governor to several commissions, including the Cabinet Council on Indigent Care and the Cabinet Council on Services to Children and Youth. In addition, after I left State government, I was appointed to serve as a member of the State of Tennessee Information Systems Council from 1990 until I left Tennessee in 1991. This Council was responsible for overseeing and approving all major information systems investments undertaken by the State government. I also served as a member of the Tennessee Historical Commission from 1989-1991.

11. **Business relationships:** (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

I am currently a director of the Association of American Rhodes Scholars and of the Franklin and Eleanor Roosevelt Institute, both of which are non-profit educational institutions. I also hold a 1/9th interest in C & M Realty, a Tennessee partnership holding real property (a family homeplace originally owned by my maternal grandfather) in Harriman, Tennessee. My two brothers and I succeeded to our mother's 1/3 interest in this property sometime after she died in 1974.

12. **Memberships:** (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

As mentioned above in response to question # 11, currently, I am a member and a director of the Association of American Rhodes Scholars, and a director of the Franklin and Eleanor Roosevelt Institute. I am also a member of the Tennessee Bar Association and the District of Columbia Bar Association. In the past, I have been active in various other civic, professional, charitable, and educational organizations, primarily when I lived in Nashville, Tennessee.

13. **Political affiliations and activities:**

- a. List all public offices for which you have been a candidate.

None.

- b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

Member, Tennessee Federation of Democratic Women
1984-1991

Treasurer, Friends of McWherter (Committee to Re-Elect Tennessee Governor Ned McWherter)
1990

Member, Tennessee Democratic Party Selection Committee for Tennessee Supreme Court Candidates
1990

At-Large Delegate, Democratic National Convention
1988

In addition to the activities listed above, I provided volunteer assistance to the Clinton-Gore campaign in the summer and fall of 1992, in the form of legislative research to be used for preparing the Vice Presidential candidate for debates. I also volunteered for the Clinton-Gore campaign in my home state of Tennessee during a vacation there last October.

- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

In attempting to compile information responsive to this question, I have reviewed cancelled checks for years that I have available, 1991-1997. I also reviewed the records of the Federal Election Commission from 1987-1997. The following is a detailed list of all contributions I could locate through this search, supplemented by my recollection of contributions I made for the years from 1987-1990, for which I do not have complete records available:

1987

| | |
|---|-----------------------|
| John Tanner for U.S. House of Representatives | \$100 |
| Jim Sasser for U.S. Senate | \$100 |
| Tennessee Democratic Party | \$300 (\$25/month) |

1988

| | |
|--------------------|-------|
| Gore for President | \$100 |
|--------------------|-------|

| | |
|---|-----------------------|
| Tennessee Democratic Party | \$300 (\$25/month) |
| Dudley Taylor for U.S. House | \$100 |
| <u>1989</u> | |
| Tennessee Democratic Party | \$225 |
| Friends of McWherter (Committee to Re-Elect Governor) | \$500 |
| <u>1990</u> | |
| Tennessee Democratic Party | \$300 (\$25/month) |
| Penny Harrington for Circuit Court Judge (Nashville) | \$50 |
| Karl Brooks for Idaho State Senate | \$50 |
| Friends of Tennessee Speaker Jimmy Naifeh | \$100 |
| Friends of State Representative Matt Kisber | \$50 |
| <u>1991</u> | |
| Clinton for President | \$100 |
| Ronnie Steine for Metro Council (Nashville) | \$100 |
| Tennessee Democratic Party | \$225 |
| Committee to Re-Elect State Senator Anna Belle Clement O'Brien | \$100 |
| <u>1992</u> | |
| Clinton for President | \$450 |
| DNC Victory Fund | \$500 |
| Committee to Elect Carol Moseley-Braun | \$100 |

1993

No contributions

1994

Bart Gordon for U.S. House \$100

Jeff Whorley for U.S. House \$63

1995

No contributions

1996

Friends of Mark Warner \$100

Ruth Katz for Congress \$100

Elaine Furlow for Arlington County School Board \$100

14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)

Honors and awards I have received include the following:

College: University of Tennessee--B.A. with highest honors, 1978; elected Student Body President, 1977; elected Student Body Vice-President, 1976; Torchbearer (highest honor awarded to undergraduates); Omicron Delta Kappa "National Leader of the Year" award; Phi Beta Kappa; Andrew D. Holt Scholarship; Phi Kappa Phi Scholarship; Senior Fellowship, McClure Foundation for International Affairs; Mortar Board; Chancellor's Citation for Extraordinary Campus Leadership and Service.

Graduate School: Oxford University--Rhodes Scholar, Balliol College, Oxford University, 1979-1981. Harvard Law School--Semifinalist, Ames Moot Court Competition; graduate student associate, Harvard Center for International Affairs; third-year paper selected for inclusion in collection at Harvard Law School Library.

Other: Selected by Time in 1994 as one of "America's 50 most promising leaders age 40 and under." Selected for "Leadership Nashville" program in 1987. Received AIDS Action Council "Public Policy Award" in 1997.

15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)

Article, The Role of the Executive Branch, in The Resurgence of State Government, Vanderbilt Institute for Public Policy Studies Summary Policy Papers (1988)(Clifford S. Russell & Tari P. Hunt, eds.)

Book Review, The American Oxonian (1988)(reviewing J. Kozol, Rachel and Her Children and J. McLeod, Ain't No Making It)

Article, Toward More Intelligent National Security Decision Making: The Case for Reform of Arms Control Impact Statements, 54 George Washington L. Rev. 177 (1986)

Book Review, 18 Harvard Civil Rights-Civil Liberties Law Review 315 (1983) (reviewing W. Ryan, Equality (1981))

In addition, as Secretary of my Rhodes Scholars class, I write a "class letter" compiling information from other members of our class that is published in the American Oxonian, a publication of the Association of American Rhodes Scholars, on an annual or semi-annual basis. In addition, I wrote two op-ed pieces while I was Commissioner of the Tennessee Department of Human Services: one appeared in the Tennessean on June 23, 1988 (title: "Ignoring Child Support Obligations Taxes Society as Well as Children"), and the other appeared in the Nashville Banner on May 29, 1989 (title: "State Is Upgrading, Creating New Options in Foster Care System").

Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with two copies of each formal speech.)

In my role as Associate Director of the Office of Management & Budget, I have spoken to groups a number of times over the past four years about Administration policy in areas I worked on, including Medicare, Medicaid, and other health issues, and related budget and appropriations issues. These presentations have almost always been extemporaneous, or, on occasion, based on handwritten notes I have jotted down immediately before the event. I

have reviewed my records and can locate only 3 copies of formal speeches. Those speeches are as follows: (1) Remarks to AIDS Action Council at Awards Ceremony, April 1997; (2) Remarks to Health Care Forum of Tennessee Business Roundtable, January 1994; and (3) Remarks to National Network of Runaway and Youth Services, Inc., February 1994. I have attached two copies of each of these speeches at Tab A.

6. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

As the Associate Director for Health & Personnel at the Office of Management and Budget for the past four years, I have worked closely with Secretary Donna Shalala and HCFA Administrator Bruce Vladeck on budgetary and policy matters affecting Medicare and Medicaid. I have also consulted with members of Congress, States, beneficiaries, and outside groups with particular interests in the operations and future of these critical programs. I believe I have the policy knowledge, open-mindedness, and tenacity to provide leadership, vision, and direction for HCFA. My main goal is to ensure that these important programs are operated efficiently, wisely, and with compassion for the people we serve.

I have also had substantial experience in managing a large government agency. From 1987-1989, I was Commissioner of the Tennessee Department of Human Services. In that capacity, I administered a 6,000 employee agency with a \$500 million budget, which provided social services, rehabilitation services, and welfare benefits to more than 1 million Tennesseans annually. The agency also administered the eligibility determination processes for Medicaid, SSI, and SSDI. During my tenure as Commissioner, we increased child support collections, reduced error rates in the Food Stamp program and maintained consistently low error rates in the Medicaid eligibility determination process, designed a central intake and assessment process that eventually transformed the child welfare system in Tennessee, and developed the first on-line, interactive, integrated eligibility determination system in the country for the Food Stamp, AFDC, and Medicaid programs. We accomplished these things while undergoing a 5% reduction in the size of the Department's work force.

I would be honored to have the challenge of serving as the Administrator of HCFA, an agency with immensely important responsibilities and missions. If confirmed, I would work with the Congress to improve the effectiveness of the agency's operations by continuing the strong emphasis on combating fraud and abuse, developing and implementing new strategies that will make HCFA a more prudent purchaser of services, and improving customer service, communication, and quality for beneficiaries.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

Not applicable--my present employer is the Department of Health and Human Services.

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

No.

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

No.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

I have reviewed my investments, obligations, liabilities, and other relationships to determine whether there were any potential conflicts of interest. After concluding that review, I filed the SF 278 Public Financial Disclosure Report with the HHS Office of the General Counsel, and a copy of that report has been transmitted to the Director of the Office of Government Ethics. The HHS Office of the General Counsel has certified that the information contained in the report does not indicate any potential conflict of interest that would affect my service as HCFA Administrator, if confirmed. I understand that letters containing this information have been forwarded to the Committee by Edgar M. Swindell, Acting Associate General Counsel for Ethics and Alternate Designated Agency Ethics Official at HHS.

While I believe there are no potential conflicts of interest in my serving as HCFA Administrator, I want to advise the Committee that I have also reviewed the work I did while I was engaged in the private practice of law at Covington & Burling, a Washington law firm, from 1991-February 1993, to ensure that there are no potential professional ethics issues that would affect my service. In 1993, before I joined the Office of Management & Budget, I was a member of a team of lawyers at Covington & Burling who advised several States on the submission of comments to an interim final HCFA rule implementing the Medicaid Voluntary Contribution and Provider-Specific Tax Amendments of 1991. I have requested an opinion from the bar counsels in the jurisdictions in which I am licensed to practice law--the District of Columbia and Tennessee--as to whether I should recuse from future enforcement actions, if any, against my former clients under this final rule. I will abide by the terms of the advice I receive from the bar counsels, and in the meantime, if the matter arises, I will recuse from involvement in this small category of actions.

In addition, as a result of this professional ethics review, I have decided to recuse from participating in decisions relating to the State of Tennessee's waiver under section 1115 of the Medicaid law. In 1992, while I was a lawyer at Covington & Burling, I did legal work on behalf of the State of Tennessee in conducting preliminary research and providing advice on issues relating to the State's eventual decision to seek this waiver. I left the firm in February 1993, and did not work on the State's waiver application. Nevertheless, in view of my direct involvement with the client on this matter, and in the interest of avoiding any appearance of loss of impartiality, I will recuse from participating in decisions on Tennessee's Medicaid waiver.

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

The HHS Office of General Counsel has certified to the Office of Government Ethics that there are no potential conflicts of interest in my serving as HCFA Administrator, if confirmed.

As described more fully in my response to question # 1 above, I have raised a potential professional ethics issue as a result of my review of the work I did while I was engaged in the private practice of law before I entered government service in 1993. I have sought the opinion of bar counsels in the jurisdictions in which I am licensed to practice on this matter and, in the meantime, I will recuse from any involvement in this small category of potential actions. I will also recuse from participating in decisions on Tennessee's Medicaid waiver.

I am not aware of any other situations that could result in a possible conflict of interest.

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

As described in response to question # 1 above, while I was working at Covington & Burling, a Washington law firm, I worked on a team of lawyers representing several States in the submission of comments to an interim final rule issued by HCFA. I also worked on a team of lawyers representing several States with respect to error rates and quality control issues in the Food Stamp program. I represented those States in some negotiations with the Food & Nutrition Service concerning the settlement of penalties that were likely to be assessed against the States in connection with Food Stamp error rates, as well as potential changes the States were advocating in quality control measurement for that program.

In addition, as Commissioner of the Tennessee Department of Human Services from 1987-1989, I often testified before the Tennessee General Assembly about issues affecting the Department or its broad areas of jurisdiction, including child welfare, AFDC, rehabilitation, and other programs. In that capacity, I represented the McWhorter Administration in advocating positions consistent with the Governor's programs and policies.

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with two copies of any trust or other agreements.)

As described in my response to question # 1 of this section, the HHS Office of the General Counsel has certified that there is no potential conflict of interest in my serving as HCFA Administrator, if confirmed. Nevertheless, based on my additional review of potential professional ethics issues that might arise from my prior representation of group of States in submitting comments to an interim final rule issued by HCFA four years ago, I have sought the advice of the bar counsels in the District of Columbia and Tennessee as to whether I should recuse myself from a small set of potential enforcement actions involving my former State clients under this one rule. Furthermore, I have decided to recuse from decisions about Tennessee's Medicaid waiver because of my involvement in representing the State in matters relating to its decision to seek the waiver.

I have attached at Tab B two copies of memoranda I wrote on July 17, 1997, to

Secretary Donna Shalala and to Edgar M. Swindell, Acting Associate General Counsel for Ethics and Alternate Designated Agency Ethics Official at HHS, outlining this professional ethics issue and describing the actions I have taken to resolve it.

5. Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

I understand that two copies of letters dated June 30, 1997 and July 22, 1997 from Edgar M. Swindell, Acting Associate General Counsel for Ethics and Alternate Designated Agency Ethics Official at HHS, have been forwarded to the Committee.

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

Not applicable.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No.

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

I was the plaintiff in uncontested divorce proceedings filed in Nashville, Tennessee, in 1987. I am not aware of any other lawsuits or administrative proceedings in which I have been a plaintiff, defendant, or third party, with the exception of litigation or administrative proceedings that may have designated me as a party in my official capacity as Commissioner of the Tennessee Department of Human Services, where I served from 1987-1989.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.

No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None.

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes.

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes.

FOLLOW-UP QUESTIONS FROM CONFIRMATION HEARING
OF NANCY-ANN MIN DEPARLE
October 9, 1997

| | |
|--|----|
| QUESTIONS FROM SENATOR GRAMM..... | 2 |
| QUESTIONS FROM SENATOR ROTH..... | 8 |
| QUESTION FROM SENATOR ROTH ON BEHALF OF CONGRESSMAN DUNCAN..... | 14 |
| QUESTIONS FROM SENATOR ROCKEFELLER..... | 15 |
| QUESTIONS FROM SENATOR MACK..... | 19 |
| QUESTIONS FROM SENATOR BREAUX..... | 23 |
| QUESTIONS FROM SENATOR MURKOWSKI..... | 26 |
| QUESTIONS FROM SENATOR KERREY..... | 28 |
| QUESTION FROM SENATOR GRAHAM..... | 32 |
| QUESTIONS FROM SENATOR GRASSLEY..... | 34 |

QUESTION 1 FROM SENATOR GRAMM

Q1: As HCFA continues to develop guidelines for implementation of the State Children's Health Insurance Program in the BBA, states are beginning to develop their state plans. What is the current timetable for approval of state plans, and what protections do states have should HCFA alter or develop rules after a plan has been submitted or approved?

A:

As this question recognizes, HCFA must work very hard with the States to be in a position to advise them as they develop the State Plans required by the new law. HCFA began working on this process almost immediately after the law was enacted, and has provided a significant amount of information to the States to guide them in the process, including the following:

- On August 27th, HCFA sent a letter to State officials providing an overview of the new program, describing its implementation plans, and enclosing a detailed summary of the law.
- On September 10th, HCFA published a Federal Register Notice that set forth the fiscal year 1998 allotments available to States, Commonwealths, and Territories for expenditures on the new program. This Notice also provided State-by-State information on the enhanced Federal matching available to States.
- In conjunction with the NGA meeting on September 11th, HCFA provided States with the first set of responses to the highest priority, most frequently asked questions about the program. Additional sets of questions and answers will be provided to States on a regular basis.
- On September 12th, HCFA provided States with a draft template and instructions to provide information on the requirements and options in the law to assist States in submitting their plans and relieve them from having to search through the law to ensure that they have made the proper assurances.
- HCFA also created a World Wide Web site to help States (and others) answer immediate questions about the new law and its implementation. (The address is <http://www.hcfa.gov/init/children.htm>).

The timetable for approval of State Plans is defined in the statute. In order to be eligible for payment under this new law, each State must submit a Title XXI plan that details how the State intends to use the funds and meet other requirements specified under the law. The statute provides that a State Plan is considered approved in 90 days unless the Secretary notifies the State in writing that the plan is disapproved or that specified additional information is needed. If a State wishes to use Medicaid to expand coverage through Title XXI, it must submit a Medicaid plan

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 1 FROM SENATOR GRAMM CONTINUED

amendment for an eligibility expansion in addition to a simplified Title XXI Plan. In order to access the FY 1998 funds, which will be available on October 1, 1997, a State must have an approved State Plan no later than September 30, 1998.

HCFA is working with States as it develops rules and procedures for both the application and approval process. I believe that this collaboration process will help to keep States fully informed. I do not anticipate requiring States to meet additional requirements after their State Plans are approved, and I would not expect that these rules or procedures would entail retrospective actions.

Based on HCFA's contacts with States, it appears that most States are planning to submit Title XXI State Plans in the spring, after they have had an opportunity to work with their State legislatures and other interested parties in developing the Plans.

QUESTION 2 FROM SENATOR GRAMM

Q2: Budget Neutrality has been a key consideration in the granting of Medicaid waivers. What is your position? Will you provide in a timely manner appropriate data and economic analysis to the Committees of jurisdiction in order that Congress can understand your decisions granting or denying state waivers?

A:

The Administration's position continues to be that demonstrations conducted under Section 1115 waiver authority be budget neutral. In other words, a State may not receive more Federal Title XIX matching funds under its demonstration than it would have received without it.

The Secretary has approved 18 comprehensive Section 1115 Medicaid demonstrations since 1993. If confirmed, I will ensure that HCFA provides information about the budget neutrality analysis and other facets of the waiver approval process to the Congress upon request.

QUESTION 3 FROM SENATOR GRAMM

Q3: How will you as HCFA Administrator ensure that states have the flexibility within the law to cover as many children as possible under the State Children's Health Insurance Program?

A:

In the new State Children's Health Insurance Program, I think Congress struck the proper balance between providing significant flexibility for States to allow them to cover as many children as possible in a manner consistent with other State programs, while ensuring that certain minimum Federal statutory requirements and standards are met so that each State's program meets the basic health insurance coverage needs of eligible children. If I am confirmed, I will work with the Congress and the States and do my best to see that this balance is maintained.

QUESTION 4 FROM SENATOR GRAMM

Q4: Will it be your intent to promulgate rules that have the effect of providing basic services for as many children as possible or will you seek to provide a broader range of services for fewer children?

A:

If I am confirmed, my intent would be to promulgate regulations and guidelines that reflect the statute. As I have indicated, I believe the law Congress enacted struck the proper balance between providing States with significant flexibility, while setting forth certain minimum standards to ensure that the basic health coverage needs of eligible children are met. For example, with respect to benefits, the law provides States with five options -- "benchmark" coverage; "benchmark"-equivalent coverage; existing comprehensive state-based coverage; other coverage approved by the Secretary; or coverage through Medicaid under the Medicaid rules. At the same time, the law is very specific that, at a minimum, one of these options must be met for a State Plan to be approved. Some States may choose an option that will provide more comprehensive coverage, while others may choose to offer coverage that meets one of the minimum standards but is less comprehensive. Either of these approaches is permissible under the law.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 5 FROM SENATOR GRAMM

Q5: Most administrative expenditures under Medicaid are matched at 50%. Will states receive matching funds for administrative expenditures at the enhanced rate, regardless of whether they exercise the Medicaid expansion option in implementing the Children's Health Insurance Program?

A:

Administrative and program expenditures under Title XXI are available at the Title XXI enhanced matching rate, regardless of whether a State chooses to expand Medicaid or to pursue a private insurance option. Under the statute, total administrative expenditures are capped. A State can spend up to ten percent of estimated or actual Federal expenditures for certain expenses, including State administrative costs associated with running the program.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 1 FROM SENATOR ROTH

Q1: Have you considered a communication plan of action that includes assuring future beneficiaries that HCFA has their interests in mind as we work to reform the Medicare program so that it will remain solvent for future generations?

A:

Educating the public -- including both current and future beneficiaries of Medicare -- about the strengths of the program, the challenges we face in financing it, and the actions we are taking are important tasks.

The great budget debates of the past two years, culminating in the enactment of the Balanced Budget Act of 1997 with its significant Medicare savings and policy changes, have set the stage for a broader national discussion of these issues. HCFA can certainly contribute to that discussion through its communications with beneficiaries, and the National Bipartisan Commission on the Future of Medicare should play a critical role in communicating with the public about the long-term challenges Medicare faces. If confirmed, I would look forward to working with the Commission and Congress on these issues.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 2 FROM SENATOR ROTH

Q2: Medicare+Choice plans cannot begin contracting with Medicare until certain regulations are published. The BBA specifies that solvency regulations for provider-sponsored organizations be issued by April 1, 1998, and that other non-solvency regulations for Medicare+Choice plans be issued by June 1, 1998. Are you prepared to meet these deadlines?

A:

Although the time frames for issuing the regulations are challenging, HCFA is committed to meeting the April 1, 1998 and June 1, 1998 issuance dates. On September 23, 1997, HCFA published a Notice in the Federal Register to inform the public about and begin the negotiated rulemaking procedures required by the statute. The agency has also established an internal regulation team to develop the general Medicare+Choice regulations. These efforts are on schedule so far, and if confirmed, I will keep the Committee informed of HCFA's progress and will provide advance notice if HCFA anticipates problems in meeting the effective dates.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 3 FROM SENATOR ROTTMAN

Q3: The deadline for States to implement state alternatives to the Federal individual market rules specified in the Health Insurance Portability and Accountability Act (HIPAA) is January 1, 1998. HCFA will be in charge of enforcing standards in those States choosing to use the Federal "fall-back" standards. This is a very new role for HCFA: in your estimate, is the agency prepared?

A:

As your question suggests, HIPAA gives a State two options to assure that "eligible individuals" have access to health insurance in the individual market. Under the first option, States may simply enforce the Federal statutory provisions. Under the second option, States may choose to implement an "alternative mechanism."

Federal "fall back" enforcement is triggered if a State fails to implement either option or fails to substantially enforce the option it chose to implement. During the development of HIPAA, it was generally not anticipated by Congress or by the Administration that the Federal "fall back" provisions would be triggered. To date, however, three State legislatures (Missouri, Rhode Island, and California) have adjourned without enacting all of the legislation required to conform their existing law to HIPAA requirements. As a result, HCFA is now responsible in these States for implementing and enforcing some or all aspects of both the individual and group market provisions.

There is no question that this new role has presented a challenge for HCFA that the agency had not anticipated. In order to implement and enforce HIPAA provisions, HCFA must collect and review documentation regarding policy forms for compliance, regulate certificates of prior creditable coverage, and monitor marketing of individual policies. HCFA has been working closely with State officials to set up mechanisms to meet these requirements. I believe that HCFA is prepared to meet the current challenges of enforcing HIPAA standards, but if Federal "fall back" enforcement becomes more than a transitional role or more States avail themselves of this option, I would want to assess the implications of such enforcement responsibilities and the need for additional resources. If confirmed, I will keep the Congress fully informed of developments.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 4 FROM SENATOR ROTH

Q4: HCFA has had to invest a lot of resources in dealing with Medicaid waivers. How do you envision the enactment of the Medicaid reforms in the Balanced Budget Act will affect the work load of HCFA with regard to waivers, and what are your plans for reallocating resources that will now be freed?

A:

With the enactment of the Balanced Budget Act (BBA), it will be easier for States to implement managed care programs under Medicaid, since some of the administrative burdens of the prior managed care waiver process have been reduced. At the same time, however, the BBA also established additional requirements for Medicaid managed care plans intended to protect beneficiaries and promote high quality care. The BBA requires HCFA to develop quality standards for State managed care plans and provide ongoing monitoring and oversight of the quality of care in managed care networks.

In addition, HCFA continues to receive a steady stream of applications from States that wish to implement comprehensive Medicaid waivers under Section 1115. States with approved 1115 waivers also continue to request amendments, and several States are seeking extensions of their waivers.

Many of the HCFA staff members who currently work on Medicaid waiver issues will also be charged with working with the States to implement the new State Children's Health Insurance Program established by the BBA. If there is any reduction in HCFA's workload relating to Medicaid waivers, I think it would make sense to direct these resources to the administration of the new State Children's Health Insurance Program.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 5 FROM SENATOR ROTH

Q5: As the new State Children's Health Insurance Program is being implemented, it is important to understand that Congress did not create this new program to simply mirror or repeat the experience of Medicaid. Congress specifically and intentionally gave the states flexibility and choices in how they elect to participate. Where Congress was silent, it should generally be assumed that the States, not the Secretary, have the authority for determining policy.

Congress for example, has generally left the mechanics of administering the program up to the States.

We also are concerned that over-regulation will slow the States' ability to be participating in the new program.

Funding for the new State Children's Health Insurance Program is available for States beginning October 1, 1997. As one of the leading Administration officials responsible for this program, please share your view of how you intend to proceed with implementation of this State program. What is your estimate of the number of States who will be ready to begin their programs on October 1? How long do you think it will take before most all States have programs up and running?

A:

As your question suggests, HCFA has faced an enormous challenge over the weeks since the State Children's Health Insurance Program was enacted in August. HCFA's goal has been to provide States with as much information as possible to guide them as they develop the State Plans that are required by the law. So far, HCFA has provided States with detailed summaries of the new law and an outline of how implementation will work, State-by-State information on FY 1998 allotments and enhanced Federal matching rates, responses to the most frequently asked questions, and a draft template and instructions to use in formulating a State Plan submission.

At this point, based on HCFA's discussions with States, it appears that no State will be ready to begin its program by October 1. Only one State, Missouri, has submitted a State Plan (on September 29th). It does appear that some States will submit child health plans for approval during the first quarter in which the funding is available (i.e., October - December 1997). A State Plan will be considered approved unless the Secretary notifies the State in writing within 90 days after receipt of the plan that the plan is disapproved or needs further information. As the existing children's health program in New York, Florida, and Pennsylvania were all "grandfathered," I expect they may be among the first to submit their plans. It is possible that a State that submits a plan in October could be up and running by the first of the year.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 5 FROM SENATOR ROTH CONTINUED

Most of the other States have set up formal work groups to develop their plans, but they do not appear to have definite schedules for submitting their State Plans. All States say they plan to access their Fiscal Year 1998 funds, which means that they must have an approved Plan by September 30, 1998.

HCFA is actively working with States as they develop their plans and will evaluate them within the timelines allowed in the law.

Responses for the Record:
Confirmation of Nancy-Ann Min DeParle

**QUESTION 1 FROM SENATOR ROTH
ON BEHALF OF CONGRESSMAN DUNCAN**

Q1: Congressman Duncan has raised a question on the floor of the House of Representatives in regard to problems encountered with HCFA's policy on reimbursing for a product that has shown great healing qualities for victims of diabetes. If you are confirmed, would you be willing to look into these problems?

A:

Congressman Duncan has asked whether, if I am confirmed as the Administrator of the Health Care Financing Administration (HCFA), I would be willing to look into some problems encountered by DeRoyal Industries, the manufacturer of Multidex, a wound care product used for the treatment of diabetic foot ulcers. If I am confirmed, I would be willing to look into these issues and work with the Congress to address them.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 1 FROM SENATOR ROCKEFELLER

Q1: The recently passed Balanced Budget Act (BBA) includes an incredible array of Medicare reforms. You are taking the helm of HCFA at a very critical time. Do you anticipate any problems in meeting the many deadlines that were imposed by this legislation? Are there any provisions of the recently enacted budget bill that may be especially problematic?

A:

There is no question that the implementation of the BBA is going to be an enormous challenge. With respect to Medicare alone, the BBA includes some 250 policy changes that HCFA must implement, ranging from simple notices and studies to developing new prospective payment systems for skilled nursing facilities, home health agencies, and rehabilitation hospitals. I am concerned that HCFA will need additional resources to implement some of the provisions of the BBA, and if confirmed, I intend to work with the Congress on this issue.

I am committed to making sure that this Committee and its staff are aware of HCFA's progress in implementing the BBA. If confirmed, I will do my best to ensure that HCFA meets the BBA's deadlines, and, in situations where this will not be possible, the agency will inform all appropriate Committees and determine how best to proceed.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 2 FROM SENATOR ROCKEFELLER

Q2: In particular, as author of the legislation allowing PSOs to participate in the Medicare program, I am interested in HCFA's implementation of the PSO legislation. HCFA has very ambitious deadlines to meet. Do you anticipate having any problems in meeting these deadlines?

A:

The deadlines for implementing the PSO and Medicare+Choice provisions are challenging, but HCFA is committed to meeting the April 1, 1998 and June 1, 1998 issuance dates specified in the law. On September 23, 1997, HCFA published a Notice in the Federal Register to inform the public about the negotiated rulemaking procedures which are to be followed for the PSO solvency regulation. HCFA also established an internal regulation team to develop the general Medicare +Choice regulations. These deadlines are very tight, particularly considering that the negotiated rulemaking process can be very time-consuming and resource-intensive. However, if confirmed, I will keep you and the Finance Committee fully informed of HCFA's progress and of any problems that arise.

QUESTION 3 FROM SENATOR ROCKEFELLER

Q3: As we discussed, Senator Mack and I remain committed to legislation we authored last year that would clarify current Medicare law regarding payment of patient care costs for Medicare beneficiaries enrolled in cancer clinical trials.

As you know, CBO scored our legislation at an unrealistically high cost. CBO and HCFA actuaries assume that many Medicare beneficiaries are paying for their own patient care costs associated with participation in a clinical trial or that doctors are absorbing these costs. Does this sound reasonable to you?

I would be interested in knowing if HCFA had any data or other evidence to substantiate the belief that significant numbers of Medicare patients are not seeking payment for their cancer care under the current system.

I would also be interested in a clarification of HCFA's current policy on payment for routine patient care costs for patients enrolled in a clinical trial. What sorts of procedures are used by the Medicare program to monitor whether a Medicare patient is enrolled in a clinical research trial?

CBO's analysis assumed that the patient care costs of participating in a clinical research trial were no more expensive than standard cancer therapy. If there is no incremental expense for persons enrolled in clinical trials, why would Medicare not want to reimburse for this care, given that it will advance medical research and provide HCFA with data on the types of medical therapies that are beneficial to Medicare beneficiaries with cancer?

A:

I am interested in exploring approaches that will improve access for Medicare beneficiaries to high-quality cancer clinical trials and to assist in advancing medical research through the inclusion of Medicare beneficiaries in these trials. I understand that in your work on this issue over the past few years, you have been concerned that both the HCFA actuaries and CBO's analysts have suggested that allowing Medicare reimbursements for clinical trials is very costly. I have not had an opportunity to gain a full understanding of the actuaries' assumptions or analysis, but I want to work with Congress on this issue in the next year in order to try to reach a common ground.

Medicare's current policy, which is based on the statutory reasonable and necessary requirement, does not cover routine patient care costs associated with items or services received as part of a clinical trial. As you know, there has been much discussion about the extent to which this policy is actually enforced and the extent to which Medicare is already paying claims for clinical trials for cancer. As is the case with many other statutory requirements, voluntary compliance is assumed. Medicare does not have explicit editing procedures in place for monitoring the enrollment of a Medicare beneficiary in a clinical trial.

Responses for the Record:

Confirmation of Nancy-Ann Min DeParle

QUESTION 1 FROM SENATOR MACK

Q1: In my state of Florida, I understand that health care providers have an option to pay for a technology that is comparatively inexpensive when they need to verify eligibility for Medicaid recipients. In fact, I am told that Medicaid programs allow any authorized provider to use a qualified vendor to verify eligibility. On the other hand, this service is not available for Medicare. It would appear that as the Medicare+Choice program is implemented and beneficiaries have different plan options and benefit packages, that the ability to determine plan participation and benefits would be of the highest priority to ensure quality of care and ease of administration. What are your thoughts?

A:

Florida and most other States have systems in place that enable Medicaid providers to verify immediately whether a patient they are treating is enrolled in Medicaid. By giving provider access to this information -- i.e., whether their services for a particular patient will be paid by Medicaid -- the system removes what used to be an administrative hassle that discouraged providers from participating in the Medicaid program.

I agree that the ability of providers to determine plan participation and benefits will promote ease of administration of the Medicare program, and I am pleased to report on September 29, 1998, plans will be given access to Medicare entitlement information.

This is similar to the information that hospitals, SNFs and HHAs can access through their fiscal intermediary on an on-line basis. Physicians can also request comparable information through their carriers with a response time of 24 to 48 hours, depending on whether the carrier already has information about the beneficiary or has to request this information from the common working file. HCFA hopes to be able to improve the service to physicians in the future as part of its modernization efforts

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 2 FROM SENATOR MACK

Q2: What do you consider to be the greatest opportunity to improve quality of care for Medicare and Medicaid patients and still rein in the rising costs of both programs, especially Medicare?

A:

HCFA has defined quality of care as the degree to which health services for individuals and populations increase the likelihood of desired health outcomes and are consistent with current professional knowledge. One way to improve health status and to reduce overall long-term costs is by promoting covered preventive services. The BBA offers some new opportunities in this area through its coverage of new preventive benefits such as increased coverage of mammography services and coverage of colorectal cancer screening services. These new services have the potential to improve quality of care for our beneficiaries and also to reduce costs over the long run if they prevent more costly diseases.

The BBA provides HCFA with new authority to test competitive bidding for certain Part B items and services, and competitive pricing for paying Medicare+Choice plans. Under both authorities, HCFA seeks to save trust funds dollars by using market-based pricing mechanisms to establish payment. A key part of both demonstrations will be to assure that the lower payment does not have a negative impact on the quality of the items or services provided to Medicare beneficiaries.

An opportunity to improve quality of care for Medicaid patients is to bring beneficiaries into managed care plans that meet the new quality provisions in the Balanced Budget Act of 1997. States are implementing large-scale Medicaid managed care programs because they believe it is an effective way to obtain better value. If executed properly, this can promote better health care and save money as the economic power of State Medicaid programs combined with Federal matching funds is channeled through managed care contracts that must meet specific goals to maintain and improve the health status of the enrolled Medicaid population.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

20

QUESTION 3 FROM SENATOR MACK

Q3: What do you consider to be the key ingredient to improve quality of care within this expanding managed care environment?

A:

Beyond value measured in dollars and cents, managed care plans have the potential to provide value that can be achieved when services are coordinated and when the focus of care is on prevention and "wellness." Other key ingredients that will help improve the quality of care delivered by managed care plans are providing beneficiaries with full information about their rights and responsibilities in managed care, offering them a choice among plans, and ensuring that plans are accountable.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 4 FROM SENATOR MACK

Q4: The exchange of information between the attending physician, either at the hospital or in the office, and the Medicare eligibility and benefit coverage file is important to successful management of the Medicare+Choice program. Is this information available at the time that it is most needed by the physician or hospital -- in other words, at the time of scheduled appointment?

A:

As I indicated in response to your earlier question, providers (hospitals, SNFs and HHAs) currently have on-line access to enrollment status information. Physicians have access to the same information but with a 24-48 hour response time. HCFA hopes to improve this service as the agency updates its contractor and central office computer systems.

QUESTION 1 FROM SENATOR BREAUX

Q1: How do you plan to carry out the competitive bidding demonstration project authorized in the BBA so that competitive bidding can be tested in a truly meaningful way?

A:

The BBA specifies the process that HCFA should follow in implementing the competitive pricing demonstration project, and if confirmed, I would ensure that HCFA follows that process. The first step is the creation of a Competitive Pricing Advisory Committee. The agency is currently developing a list of potential candidates for the Committee. As the statute provides, HCFA plans to appoint individuals with expertise in competitive health plan pricing. Consistent with Congress' intent, HCFA will then await the Advisory Committee's initial recommendation before proceeding with the implementation. The law specifies that HCFA should have two sites operational by January 1, 1999. Although this deadline will be a challenge, HCFA will do its best to meet it.

Responses for the Record:
Confirmation of Nancy-Ann L. Min DeParle

QUESTION 2 FROM SENATOR BREAUX

Q2: What do you plan to do to ensure that this demonstration project has a different result from those tried in Denver and Baltimore?

A:

First, I think that the fact that the demonstration project is mandated by Congress ensures from the start that this demonstration will have different results from Denver and Baltimore. The Congressional mandate both serves to clarify issues of statutory authority and indicates that both the Administration and Congress believe this is an approach worth testing.

Second, the Competitive Pricing Advisory Committee structure prescribed by the law, both at the national and area level, ensures that there will be greater input from all affected parties on the design of the demonstration. In fact, site selection will be taken out of HCFA's hands and instead will be determined based on the recommendations of the Advisory Committee. I believe that these competitive bidding demonstrations are critical to obtaining the kind of information HCFA needs to develop more efficient payment methodologies, and if confirmed, I will do everything I can to ensure their success.

QUESTION 3 FROM SENATOR BREAUX

Q3: HCFA has recently published a new set of comprehensive regulations regarding coverage for ambulance services. As I understand it, HCFA's policy is to consider coverage issues and reimbursement issues separately. However, it would make more sense to consider both at the same time since you are completely reforming this system and these two issues go hand in hand. I have joined the Louisiana delegation in a letter to HHS on this issue. What is HCFA's intention regarding the rulemaking process at this point?

A:

The proposed ambulance regulation (published on June 17, 1997) was designed to clarify and update current Medicare policies and regulations that are seriously out-of-date. It was also intended to address long-standing concerns raised by the HHS Inspector General and members of Congress about inappropriate payment for ambulance services. Under current policy, Medicare reimburses for ambulance services based on the type of vehicle used, rather than on the needs of the beneficiary. This results in Medicare paying more than it should for ambulance services. The HCFA Actuary estimates that in 2000 (the year the new fee schedule will take effect), Medicare will be paying \$65 million more than it should be paying if the current payment policy is maintained.

From my discussions with you and other members, I have become aware that some of the policy changes included in the proposed regulation are controversial and that questions have been raised about the relationship between the proposed rule and the negotiated rulemaking established by the Balanced Budget Act, which requires HCFA to develop an ambulance fee schedule by January 1, 2000.

I appreciated hearing from the Louisiana delegation and other members of Congress who are concerned about this issue. In response to those letters, the agency is reviewing both the proposed rule and the Balanced Budget Act to identify possible areas of overlap. Based on that review, if confirmed, I will decide how to proceed with the proposed rule and with the negotiated rulemaking, which is expected to begin in the Spring of 1998. My goal would be to see if there is some way to preserve and harmonize the most important aspects of the proposed rule -- to address Medicare's overpayment for ambulance services -- in the context of the negotiated rulemaking process.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 1 FROM SENATOR MURKOWSKI

Q1: Now, more than ever, HCFA needs to compile concrete analysis and data on the efficiency of Medicare telemedicine reimbursement. In the Senate reconciliation bill, the Senate Finance Committee strongly recommended that HCFA extend the demonstration to at least three additional sites located in rural regions of the Western United States. If confirmed, would you commit to such an expansion of the current HCFA telemedicine demonstration project?

A:

I believe that telemedicine holds much promise for improving access and quality of care for Medicare beneficiaries living in rural areas. If I am confirmed, I will work to ensure that HCFA implements the BBA provision requiring two analytic reports on the cost, quality, and access effects of telemedicine. With the expansion of telemedicine provided in the BBA, underserved rural areas throughout the United States will have access to telemedicine, not just those areas that have been covered by the HCFA demonstration.

QUESTION 2 FROM SENATOR MURKOWSKI

Q2: The BBA also included a Medicare pilot program that established six test sites in the U.S. to test the feasibility of HCFA reimbursing the Dept. of Defense for care they provide Medicare eligible military retirees. Alaska offers an opportunity to test this concept in an atypical location. Alaska has no HMOs (similar to overseas where there is either no HMO, or where a foreign medical system provides contract support or where the Military Treatment Facility must operate on its own). No other sites in the U.S. offer this opportunity. If confirmed, would you seriously consider Alaska as a test site for this pilot program?

A:

The statute requires that the two Secretaries designate six sites after reviewing all DoD Tricare regions. I understand that DoD is currently conducting this review to assure that the sites meet all the demonstration criteria, including the ability to meet data collection requirements and the necessary capacity to serve the enrolled dual-eligible population, and that DoD will make recommendations following its review. If confirmed, I will encourage DoD to consider Alaska as well as other sites that would benefit Medicare-eligible military retirees.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 1 FROM SENATOR KERREY

Q1: This summer, the Finance Committee supported several significant changes --such as means-testing Medicare benefits for wealthier enrollees and gradually raising the eligibility age to 67. Do you support requiring more affluent Medicare enrollees to pay more for their Medicare Part B benefits?

A:

I am not opposed to the concept of an income-related premium, although I would want to make sure that if Congress decided to adopt such a policy, it were designed so that the Part B subsidy is not completely eliminated, and the premium can be efficiently administered. I am concerned that if the subsidy for Part B was eliminated completely, the highest income beneficiaries would have a strong incentive to opt out of Part B, which could eventually weaken the risk pool. If confirmed, I would work with the Congress and the Bipartisan Commission on the Future of Medicare to provide the data and analysis required to assess the merits of this and other proposals, and am committed to providing this Committee and the Congress with the information it needs to evaluate such proposals.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 2 FROM SENATOR KERREY**Q2: What are your views on raising the Medicare eligibility age?****A:**

I am not opposed to the concept of raising the Medicare eligibility age, so long as it does not create a hardship for beneficiaries who were depending on Medicare eligibility or result in an increase in the number of uninsured Americans. Raising the Medicare eligibility age to conform with the phase-in of the Social Security eligibility age might make sense if we could ensure that it did not adversely affect seniors who have made retirement plans expecting to have their health care needs covered by Medicare. If confirmed, I would work with the Congress and the Bipartisan Commission on the Future of Medicare to provide data and analysis that would assist in evaluating the merits of this and other proposals.

QUESTION 3 FROM SENATOR KERREY

Q3: What other strategies would you pursue to ensure the long-term health of the Medicare program?

A:

If confirmed, the first thing I would focus on is the timely and successful implementation of the Balanced Budget Act. The BBA includes not only savings provisions that help to extend the life of the Medicare HI Trust Fund by more than a decade, to 2010, but also establishes new Medicare plan choices that could encourage more beneficiaries to choose managed care, new preventive benefits that could, over time, save money by preventing more expensive diseases, and structural changes that reform Medicare's outdated payment methodologies and permit us to experiment with competitive bidding for many seniors. I will also continue and sharpen Medicare's focus on combating fraud and abuse, which I think can contribute a great deal to improving the long-term health of the program.

The Bipartisan Commission on the Future of Medicare offers an important opportunity for additional efforts to strengthen Medicare's long-term health, and I am eager to work with the Commission and the Congress on any ideas that could contribute to strengthening the program.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 4 FROM SENATOR KERREY

Q4: I also believe that we cannot maintain Medicare as a discrete program, separate from other government health care programs and subsidies -- including Medicare, the income-tax exclusion for employer-provided health benefits, and VA benefits. Ultimately, we need to guarantee health coverage for every American, without eligibility categories or income level. What are your views on universal coverage? Do you agree that our current subsidy system is Byzantine and unfair?

A:

As you know, this Administration did not achieve its objective of guaranteeing health insurance coverage to every American. Although I agree that there are problems and gaps caused by our current system, I think it is appropriate that our focus now is on strengthening the programs we have -- including Medicare, Medicaid, Veteran's health benefits, the Federal Employees Health Benefits Program, and DoD's CHAMPUS -- and building upon them. Through the Section 1115 waiver program, we have worked with some 18 States in expanding Medicaid coverage to previously uninsured workers and their families. And of course, if confirmed, one of my top priorities will be the successful implementation of the BBA's State Child Health Insurance Program, which sets up a Federal-State partnership through which millions of uninsured children can obtain coverage.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 1 FROM SENATOR GRAHAM

Q1: According to the recently published Chief Financial Officer's audit by the Inspector General, Medicare does comprehensive audits on only 3 out of every thousand providers. Two days ago, Senator Harkin and I sponsored an amendment to the Labor/HHS bill which would provide that HHS spend no less than \$50 million on provider audits. Although this will double the number of provider audits, this is still less than ten percent per one thousand and is in my opinion, still woefully inadequate. What do you plan to do as Administrator of this agency to step up the pressure on fly-by-night providers?

A:

If confirmed, one of my top priorities as HCFA Administrator will be to combat fraud and abuse in the Medicare program. My strategy for attacking fraud and abuse is based on the simple concept of "paying right the first time." My approach includes: prevention, early detection and use of innovative technology, and cooperation with states and law enforcement.

By guaranteeing the initial accuracy of both claims and payments, we avoid having to "pay and chase," and we can prevent opportunities for fraud and abuse. Using the best technology available gives us the tools to detect those fraudulent providers as soon as possible and ensure that they are no longer abusing the Medicare Trust Fund.

Finally, a lesson learned through Operation Restore Trust is the importance of collaborating closely with our partners at the state level, at the Department of Justice, the FBI, the Inspector General, and in the private sector to share information and tactics about fighting fraud and abuse.

Given that prepayment technologies are not at the point where they can solve the problem, I agree that we also need to do more provider audits and medical reviews to detect fraud and abuse, and appreciate the work you and Senator Harkin have done to focus attention on the need for more resources. If confirmed, I intend to seek and devote more of HCFA's resources to these activities. HCFA's recent actions to combat fraud and abuse in the home health program are an example of the kind of approach I am willing to use if it is necessary. Our home health action plan included the redirection of \$10 million in Medicare Integrity Program resources to double the number of home health audits, as well as a moratorium on certification of new home health agencies and tougher requirements for existing Medicare home health agencies.

Effective September 15, 1997, the moratorium is expected to last about six months. During this time, HCFA will develop new regulations that target the fraud, waste, and abuse in the home health industry. HCFA also will implement the safeguards in the 1997 Balanced Budget Act, such as requiring surety bonds and requiring agencies to bill Medicare based on the site of service, rather than on the agency's location. Home health agencies typically are located in an urban area which often receives a higher reimbursement rate than the site of service, the patient's home.

Responses for the Record:

Confirmation of Nancy-Ann Min DeParle

32

QUESTION 1 FROM SENATOR GRAHAM CONTINUED

The new regulations include a requirement that home health agencies supply HCFA with information about related businesses they own. Often, unscrupulous home health providers funnel fraudulent activities through subsidiaries or front companies that do not actually exist. This new requirement will make those types of scams harder to carry out.

Home health agencies will also be required to re-enroll in Medicare every three years. As part of the re-enrollment process, agencies will have to submit an independent audit of their records and practices. If the agency does not meet the strict new enrollment requirements, it will not be renewed as a Medicare provider.

Additional measures under the new regulations require that home health agencies serve a minimum number of patients prior to seeking Medicare certification and that new agencies have sufficient operating funds on hand for the first three to six months. Serving private-pay patients will demonstrate experience and expertise in the field before an agency is allowed to serve Medicare and Medicaid's vulnerable populations. The cash requirement will establish the financial stability of home health providers. All of these new requirements have been recommended by our Inspector General and I believe they will help to increase pressure on unscrupulous providers and weed out the "bad apples" before they get into the Medicare program.

Responses for the Record:
Confirmation of Nancy-Ann Min DeParle

QUESTION 1 FROM SENATOR GRASSLEY

Financial Statement Audit of HCFA

Q1: It is my understanding that HCFA has several efforts underway to evaluate the use of information technology in detecting and preventing waste, fraud and abuse in Medicare claims processing. These efforts include 1) a Correct Coding Initiative, 2) testing commercial-off-the-shelf software, and 3) an agreement with Los Alamos Laboratories to detect patterns of fraud and abuse.

Who at HCFA has overall responsibility for ensuring that these are appropriately managed and coordinated; efficiently and effectively implemented; technically, operationally, and economically feasible; and complement rather than duplicate each other?

A:

If confirmed to be the Administrator of HCFA, I will have the ultimate responsibility to ensure that our Medicare and Medicaid programs have effective, comprehensive program integrity initiatives that balance resources devoted to promising new technologies with resources focused on the tried-and-true post-payment audit and medical review approaches. The efforts that you have described as well as other strategies against fraud and abuse in HCFA are coordinated by Linda Ruiz, Director of the Program Integrity Group in the Office of Financial Management. I have provided more information about each of these initiatives in response to the question that immediately follows this one.

QUESTION 2 FROM SENATOR GRASSLEY

Financial Statement Audit of HCFA

Q2: Does HCFA have any other efforts underway to use information technology to prevent waste, fraud, and abuse in the Medicare program? If so, what are they, what will they cost and how do they complement the initiative discussed above?

A:

HCFA is implementing many new anti-fraud and abuse initiatives and expanding several current initiatives, placing a particular emphasis on technology investment. HCFA's anti-fraud and abuse technology investment plan has three components: national initiatives; local (primarily contractor level) initiatives; and research and development initiatives to position HCFA for the future. Some of these initiatives include the following:

National Initiatives:

- **HCFA Customer Information System (HCIS):** HCIS is a comprehensive interactive database that has been key to the success of program integrity projects like ORT and provides rapid access to national, regional, state, and provider level data. This system is currently used by HCFA, its contractors, and law enforcement agencies. I would note that in FY 1998, improved access to the OIG and DOJ is a top priority in addition to enhancements that will allow linked analysis of Medicare Part A and Part B data.
- **Correct Coding Initiative:** Implemented in 1996, this initiative began with a contract to evaluate all physician CPT codes and recommend policy for how codes should be billed, including which codes should be bundled prior to payment when separately billed. These policy recommendations were turned into more than 80,000 coding edits that were mandated by HCFA to be added to carrier standard claims processing systems. This effort is ongoing and as policy recommendations come forth, HCFA will continue to implement those recommendations through our standard systems. **This project has resulted in approximately \$200 million in savings in FY 1996.**
- **Fraud Investigation Database (FID):** Also implemented in 1996, the FID is a comprehensive nationwide system devoted to accumulating fraud and abuse information. It represents the computerization of information sharing across government agencies and contains the status of all fraud cases, chronology of events for each case, disposition of each case and access to the OIG excluded provider list. Currently this database is available to HCFA, the FBI, OIG, Justice Department, U.S. Postal Inspector, Medicaid Fraud Control Units.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 2 FROM SENATOR GRASSLEY CONTINUED

- **Statistical Analysis Contractor:** Since 1993, HCFA has supported a dedicated statistical analysis contractor to support its four Durable Medical Equipment Regional Contractors (DMERCs). This contractor produces ongoing analysis of trends, utilization rates, billing patterns, referral patterns and more at the national and regional levels. For example, this comprehensive view of the data has led to numerous discoveries of duplicate billing across multiple carriers. Based on the success of this model, HCFA is planning to award another such contract in FY 1998 with the intention that this contractor would be positioned to support the dedicated program integrity contract that is planned for FY 1999.
- **Commercial-off-the-Shelf Software for Claims Editing:** In 1996 HCFA selected GPG, formerly GMIS, Inc., to test a commercially available software application known as "Claim Check" which is designed to evaluate physician claims and reduce erroneous or abusive billing on a prepayment basis. HCFA is currently testing this software at one of its contractors to evaluate the underlying policy of edits, customization needs, savings, and installation and integration issues. HCFA plans to have enough information by November 1997 to begin exploring whether to use it nationally.

Local Initiatives:

- HCFA's development of tools at the national level has been complemented by continuing investment in analytic tools at HCFA contractors. HCFA has intentionally not endorsed or directed the purchase of specific commercial software because by allowing our contractors to explore and acquire a variety of software, market forces will promote competition and continuing improvements to analytic software available to analyze HCFA data. For example, one such proprietary software currently used by a number of contractors is the **Service Tracking, Analysis and Reporting System (STARS)**. STARS is a user friendly tool that interfaces with utilization data, both Part A and Part B. It allows the user a lot of flexibility in determining which data best identifies potential fraud and abuse.
- Another example of a local initiative is **Super Operator (SuperOP)**, which is a user controlled rule based system that interfaces with current claims processing systems and allows the user to test, implement, and track edits that would normally be outside the capability of the standard system.

Future Initiatives:

- **Research and Development of New Methods:** The Medicare Fraud Project with Los Alamos National Laboratories is HCFA's ground breaking technology to spot suspicious claims earlier. The primary product of this project is a prototype methodology

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 2 FROM SENATOR GRASSLEY CONTINUED

of dynamic new mathematical models and algorithms which uses provider and beneficiary profiles containing "features," or pieces of information that reliably pinpoint fraud and abuse from the incredible volume of data. The work of Los Alamos to date has been to determine and construct the features of each type of profile, conduct massive statistical and mathematical analyses, write exploratory computer code, and perform verification work with contractors to see if the complicated models match up with reality. By its work with Los Alamos, HCFA hopes to build an automated prepayment mechanism that can identify and rank suspicious claims.

Other Initiatives:

- **The National Provider Identifier (NPI)** is an industry-wide unique identifier for providers and suppliers created under the authority of the Health Insurance Portability and Accountability Act of 1996. This identifier will be used to create databases that will contain a record of all providers and suppliers who are certified to bill Medicare. The newly acquired authorization to require social security numbers from those who bill the program will enhance our ability to fight fraud by flagging in the database a provider who has been formally excluded from the Medicare or Medicaid program or otherwise has been identified as being an abusive biller. This database will then be available to the contractors who are processing claims and accessing the database to automatically deny or give greater scrutiny to associated claims.

QUESTION 3 FROM SENATOR GRASSLEY*Will the Current Reorganization Delay
Implementation of the Balanced Budget Act Provisions*

Q3: When will the reorganization be fully implemented? Is the reorganization going to slow down implementation of the BBA? How many posts are still empty?

A:

The HCFA reorganization was fully implemented on July 6, 1997 for the Central Office and August 17, 1997 for the Regional Offices.

I believe that the implementation of the BBA will be enhanced by the new organizational structure. The reorganization of the agency was designed to better serve beneficiaries by streamlining the operation to enhance communication among the individuals working on similar issues. This enhanced communication will make the implementation move more quickly.

Of the 14 senior positions that report directly to the Administrator, there are currently two positions being filled on an acting basis, the Director of the Center for Beneficiary Services and the Director of the Office of Clinical Standards and Quality.

In an organization as large and diverse as HCFA, there are always some vacancies. As of June, HCFA had an FTE ceiling of 4085. There were 4018 staff on board at that time representing 3923 FTEs.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 4 FROM SENATOR GRASSLEY

*Will the Current Reorganization Delay
Implementation of the Balanced Budget Act Provisions*

Q4: Is the reorganization moving HCFA in the same direction as the BBA? The Act emphasizes principles of choice and competition. It's trying to get away from HCFA's traditional role as a bill-payer and move toward being an intelligent purchaser. The BBA also emphasizes working with states and consumers to develop new programs, rather than simply promulgating regulations from on high. Does the HCFA reorganization move the agency in these directions?

A:

I believe that HCFA's recent reorganization does move the agency in the direction promoted by the BBA. The concepts your question highlights -- moving HCFA to become a beneficiary-centered purchaser of health care instead of simply a payer of claims and working cooperatively with States and consumers -- were at the heart of the philosophy of the reorganization.

The new organization emphasizes a beneficiary-centered approach to delivering health care services focused around organizational "centers," such as the Center for Beneficiary Services, the Center for Medicaid and State Operations, and the Center for Health Plans and Providers. The Center for Health Plans and Providers centralizes all Medicare provider activities, whether managed care or fee-for-service, so managed care is no longer a small outpost within HCFA's organization.

The reorganization solidifies HCFA's aim to become a beneficiary-centered purchaser of health care services, an approach that will actively use purchasing strategies, including market presence, to obtain high quality health care for beneficiaries at an affordable price. This new approach includes providing beneficiaries with ready access to information about program benefits, health plan choices, treatment options, appeal rights, and taking advantage of competitive bidding and other more efficient payment strategies. Thus, for HCFA, part of becoming a more effective purchaser of care will be assisting beneficiaries and their families to become better informed purchasers of care.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 5 FROM SENATOR GRASSLEY*Medicare Transaction System*

Q5: How much has HCFA spent on the MTS project, including MTS contractor costs, HCFA development costs, and all contract termination costs?

A:

Total MTS project costs as of July 3, 1997, are \$79 million -- approximately \$45 million for the GTE software development contract, and \$4 million for other small contracts for independent verification and validation, project management consulting services and software testing and support; and approximately \$30 million for HCFA development costs including staff, travel and training costs.

HCFA is in negotiations with GTE at this time to determine the close-out costs for the contract. As soon as the negotiations are complete, cost information will be provided to the Committee. Money remaining from the GTE contract close-out negotiations will be returned to the Medicare Trust Fund.

Responses for the Record:
Confirmation of Nancy-Ann Min DeParle

QUESTION 6 FROM SENATOR GRASSLEY

Medicare Transaction System

Q6: Has HCFA received any benefits from this effort? If so, what products have been delivered? How will they be used to improve the Medicare system?

A:

HCFA has also received products from the GTE effort that will be useful in improving the Medicare system. The following are 9 major products that HCFA has received:

1. A **system design** that would meet the needs of a completely redesigned managed care and fee-for-service transaction system. The design is determined based on system performance requirements (how many transactions, how fast they have to be done, who needs access to data), as well as the functions that the system needs to perform (making payments). Included in the design are solutions for security of the system and telecommunication processes.
2. **High level requirements for the entire system**--what the system must do to support current and future functions for managed care and fee-for-service. This is useful as HCFA determines how to move forward with actual systems development, and would provide critical information to any contractor HCFA engages to write new software
3. Most of the **specific current and future requirements for what the managed care** part of the system must do. This is critical information that is needed by any follow on contractor HCFA may engage to write the software for the managed care system.
4. For **targeted areas in the managed care application**, complete sets of requirements and nearly-complete design specifications. This level of detail gets us very close to the step where actual programming (writing software) can begin. It would provide valuable information to any contractor HCFA would engage to write software for managed care.
5. Nearly complete business **requirements for consolidated financial processing**. This provides HCFA with important information about what a consolidated financial system must do, and could be used by a contractor as the basis for developing a financial system for HCFA that will meet the requirements of the CFO Act.

Responses for the Record:

Confirmation of Nancy-Ann Min DeParle

QUESTION 6 FROM SENATOR GRASSLEY CONTINUED

6. Nearly complete set of requirements for the fee-for-service beneficiary and insurer databases. This provides HCFA with important information about what the system must do to support many of the Balanced Budget Act provisions which are focused on what type of coverage a beneficiary has elected. These requirements would form the basis for future system development in this area.
7. Reusable hardware and software originally purchased by GTE for the development environment. HCFA is in the process of physically moving this equipment and software to HCFA's offices in Baltimore.
8. A catalogue of the kind of hardware and software that would be needed to support an operating site. This will be useful information as HCFA analyzes its future need for an operating site for managed care and/or fee-for-service processing.
9. A plan for building a test facility to support managed care. This is crucial information HCFA will use as it analyzes its needs related to how it should test any new managed care software.

HCFA originally hoped to obtain complete software for the new system from its contract with GTE. Although that did not work out, it is my understanding that GTE did complete much of the work that was necessary to define the requirements for information technology to improve Medicare claims processing. This will be useful to HCFA in whatever way it chooses to proceed, because the requirements provide the basis for further development of a system (next is detailed specifications, then writing the software). One of the difficult lessons HCFA learned through the MTS effort is that defining the requirements for the system is the most difficult part of the systems development process, and one that is critical before further development work is undertaken.

Separately, during the time while work was proceeding on the GTE software development project, HCFA moved ahead aggressively to fix one of the problems that has plagued Medicare and that needed to be addressed before a new system could be designed. As part of the MTS implementation, HCFA is currently transitioning its Part A, Part B and DME contractors to standard software. HCFA has already selected standard software systems, and transitions are scheduled to be completed by May 2000.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 7 FROM SENATOR GRASSLEY

Medicare Transaction System

Q7: Who were the senior HCFA officials responsible for managing the MTS effort? Have they been held accountable for this poorly managed project? If so, how? Which, if any, of these officials will have similar positions and responsibilities for any future automation efforts? What role did the OMB play in monitoring this effort, if any?

A:

MTS project management began in 1992 under the guidance of the Director of the Bureau of Program Operations (BPO), Carol Walton. Ms. Walton was supported in her management of the project by an MTS Management Board consisting of Dr. Regina McPhillips, Director of the Bureau of Data Management and Strategy and Barbara Gagel, Director of the Bureau of Health Standards and Quality. Ms. Walton, Dr. McPhillips and Ms. Gagel reported to David Butler, Acting Associate Administrator for Operations (AAO). Mr. Butler, in turn, reported directly to HCFA Administrator Bruce Vladeck until the Administrator reorganized AAO, creating the Associate Administrator of Operations and Resource Management (AAORM) under the leadership of Steven Pelovitz.

By 1996, Mr. Vladeck had decided that MTS development required greater involvement by HCFA's operational leadership and asked Mr. Pelovitz to take charge of MTS oversight, starting with a reconfiguration of the project management team. Mr. Pelovitz, in consultation with the Administrator, enhanced the MTS senior management team to include Jared Adair, Director of the Office of Analysis and Systems in BPO; Elizabeth Cusick, Senior Advisor, AAORM; and Michelle Snyder, Director of the Office of Financial and Human Resources.

Under HCFA's reorganization, which became effective in July 1997, automation and technology efforts are under the direct authority of a new Chief Information Officer. After a national search, HCFA has recently hired Dr. Gary Christoph, formerly of the Los Alamos National Laboratory's Computing, Information, and Communication Division as its Chief Information Officer. The Chief Information Officer will report to HCFA's Chief of Operations, Steven Pelovitz, and Deputy Chief of Operations, Michelle Snyder. In addition, based on GAO's recommendations, the Chief Information Officer will have direct access to the Administrator.

The Information Technology Management Reform Act, which became law in 1996, changed the nature of OMB's responsibilities for oversight of information technology projects. In addition to OMB's traditional financial oversight, technology oversight responsibilities that had previously been with GSA were given to OMB. Thus, in the summer of 1996, OMB began monitoring the progress of MTS very aggressively. In fact, although HCFA originally requested some \$267 million for MTS in the FY 1998 budget, OMB supported only \$89 million, and specified that these funds could not be used for further MTS software development.

Responses for the Record:

Confirmation of Nancy-Ann Min DeParle

QUESTION 8 FROM SENATOR GRASSLEY

Medicare Transaction System

Q8: What actions has HCFA taken to ensure that future development efforts, such as MTS, will not end in failure?

A:

Over the course of the MTS project, HCFA received numerous recommendations about the scope of the project, from sources such as the General Accounting Office (GAO), the information resource management (IRM) experts at OMB and HHS, and the Information Technology Review Board (ITRB). The following are some examples of how HCFA has incorporated many of these suggestions into our contracting and oversight procedures for future technology initiatives:

- For HCFA's current projects to transition its contractors to standardized software and to prepare its systems to handle dates in the year 2000 and beyond, HCFA is expanding the use of a systems integrator and an independent validation and verification contractor;
- Future projects will not focus solely on software development for a particular purposes, but will also have an integrated project plan that includes how the software will interact with other HCFA-critical activities;
- HCFA plans on conducting more comprehensive reviews of finished products by contractors, such as GTE during the MTS project, before proceeding to subsequent steps. For example, upon completion of the managed care requirements by GTE, the agency will review that product in the context of new information and proceed according to the results of its analysis;
- HCFA will evaluate each piece of work relative to its manageability and risk, and to the resource demands of other work being done by HCFA;
- For additional review, the agency will submit the results of its future analyses to the ITRB for evaluation and feedback.
- After a national search, HCFA has just hired a new Chief Information Officer, Dr. Gary Christoph, who was the Chief Information Officer of the Los Alamos National Laboratory's Computing, Information, and Communication Division. Dr. Christoph will have direct access to the Administrator as recommended by GAO.

If I am confirmed as HCFA Administrator, I intend to take a very hard look at the objectives of the MTS project and make some decisions about how best to move forward in achieving these

Responses for the Record:
Confirmation of Nancy-Ann Min DeParle

QUESTION 8 FROM SENATOR GRASSLEY CONTINUED

objectives while incorporating the recommendations of GAO, OMB and other experts. I have already solicited GAO's help in these efforts and intend to manage this process aggressively. I also want to work with the Congress on any new plans for future information technology investment. And I can assure you that any new investments will fully meet the requirements of the ITMRA and the OMB guidance on investments in information technology.

Responses for the Record:
Confirmation of Nancy-Ann Min DeParle

QUESTION 9 FROM SENATOR GRASSLEY

Medicare Transaction System

Q9: HCFA's objectives for MTS were to provide improved service and reduce operating expenses; offer better contractor oversight and provide more protection of program funds from waste, fraud and abuse; and to accommodate managed care and alternative payment methodologies. Do you plan to meet these objectives by any other means? If so, how? Has an estimate been made to determine the cost of meeting these objectives?

A:

The primary business needs for a modernized Medicare information system remain unchanged. HCFA needs a computer system that can make more accurate and appropriate payments; provide the necessary information for its program integrity activities; support its financial management responsibilities; and support service to its customers. With the recent termination of the GTE contract, HCFA is currently examining the appropriate way to proceed on the rest of the work that needs to be done.

HCFA's first priority is to develop a new managed care payment system. The current system was designed in the 1970's and cannot handle the volume of plans HCFA has today, much less the volume anticipated in coming years. It was not designed to handle the kinds of alternative plans or payment methods envisioned in the Balanced Budget Act of 1997. At the present time, HCFA is looking at alternatives for turning the requirements it will receive from GTE into software to meet its managed care responsibilities.

HCFA is continuing to refine and review its strategy for modernizing its Medicare information system. In developing this strategy, HCFA will consult with GAO and OMB. If confirmed, I expect to provide Congress with the details of this new strategy later this fall. I am committed to ensuring that all decisions will be made in accordance with the most advanced system development methods available. HCFA will analyze alternatives and make decisions based on that analysis, and any investments in information technology will fully meet the requirements of the Information Technology Management Reform Act and the OMB guidance on information technology investments.

Determining the cost of work to be completed is an integral part of analyzing alternatives. Because the analysis of alternatives has not been completed, I cannot provide cost estimates at this time. I can assure you that, if I am confirmed, when HCFA does have a plan for moving forward with its information system development, each increment of work will be fully justified in terms of cost, benefit and effectiveness.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 10 FROM SENATOR GRASSLEY

Medicare Transaction System

Q10: As an interim step, before MTS was to be delivered, HCFA planned to transition all Medicare claims processing to standard Part A and B systems. Which HCFA organizations and officials are responsible for ensuring that this effort is completed within specified schedules and budgets? Is HCFA on schedule and when will this initiative be completed?

A:

Responsibility for transitioning all claims processing to a standard Part A, a standard Part B and a standard DME processing lies under the authority of HCFA's Chief Information Officer. HCFA's current Acting Chief Information Officer is Jared Adair, but after a national search, the agency recently appointed a new Chief Information Officer, Dr. Gary Christoph, who will begin work in October 1997. Dr. Christoph comes to HCFA from the Los Alamos National Laboratory's Computing, Information and Communications Division and has extensive management experience in computer and network systems which will be of significant value to HCFA.

Transitions to standard software are scheduled to begin in March 1998 and will be completed by May 2000. To date, 20 Part A intermediaries have been transitioned to the Florida Shared System and the remaining 20 will be transitioned by next August. Three of the four DME contractors are using VIPS now and the transition for the fourth will be completed by July 1998. Eight Part B carriers are using the EDS system now and the remaining 24 will be using the system by August 2000. Consolidation of contractor systems is an exceptional accomplishment for HCFA in terms of achieving administrative efficiencies and, if confirmed, I will oversee this process aggressively to ensure that the transitions take place on schedule and within cost.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 11 FROM SENATOR GRASSLEY***Medicaid Managed Care for People with Special Needs***

Q11: What has HCFA done and how do you intend to proceed with identifying the current state of the art in the managed care industry and assisting states and beneficiaries to develop quality managed care programs for special needs beneficiaries?

A:

HCFA is involved in a variety of efforts to identify the state-of-the-art in managed care programs with respect to special needs beneficiaries, including:

- A series of research and demonstration projects ranging from comprehensive State Medicaid demonstrations to demonstrations specifically targeted to special needs populations;
- Strengthened partnerships with DHHS and state agencies which support services to special populations to solicit their input in assessing state managed care systems design and operations;
- Beneficiary outreach to improve information dissemination that will be useful to beneficiaries in making health care choices and for obtaining their input, such as comprehensive Medicaid demonstrations requiring annual beneficiary surveys;
- Working closely with accrediting organizations and DHHS agencies to develop quality measurement tools;
- A Quality Technical Advisory Group made up of State representatives and a Medicaid Value-Based Purchasing Strategy Team. The team is made up of five members of the Executive Committee of the National Association of State Medicaid Directors (NASMD) and five members of the HCFA Quality Council. HCFA Quality Council participation also provides a forum for HCFA to evaluate both Medicaid and Medicare purchasing strategies to determine where consistent strategies might be appropriate. The team has already identified individuals with special health care needs as a special focus area;
- Enforcing the recently enacted Balanced Budget Act, which provides a wide range of consumer protections, and gives the Secretary the authority to establish Medicaid quality standards, including standards for individuals with special needs. The study of safeguards for individuals with special needs in Medicaid managed care allows us to proceed with more deliberation in developing policies around this population.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 12 FROM SENATOR GRASSLEY***Home Health Care -- Prospective Payment System***

Q12: What steps do you envision taking to assure the successful development and implementation of PPS for home health benefits?

A:

Development of the national home health prospective payment system is a high priority for HCFA. If confirmed, I intend to manage this process aggressively to ensure that it is successful. Many of the agency's resources currently are, and have been, dedicated to developing this payment system. The main steps to assure the successful development and implementation of PPS involve work on research and demonstration projects. These projects are providing crucial information for developing the unit of payment and case-mix adjustments -- the essential features of a home health PPS. The projects are already underway, and HCFA is continuing its work.

The research and demonstration projects include the following demonstration and studies:

- National Home Health Prospective Payment Demonstration
- Case Mix Research Study
- Volume Outcome Study

The National Home Health Prospective Payment Demonstration is useful in testing the appropriateness of specific payment methodologies in advance of full implementation. The demonstration is also valuable in identifying methods that do not work well, and that HCFA would not want to implement. The Case Mix Research Study is providing information to develop a case-mix adjustment system for PPS by examining the relationship between patient characteristics and home health resource use. The Volume Outcome Study is analyzing the relationship between the volume of home health services furnished and patient outcomes. In setting a payment rate for PPS, it is important to know, within a range, the appropriate amount of care needed to produce the best possible patient outcomes.

Responses for the Record:
Confirmation of Nancy-Ann Min DeParle

QUESTION 13 FROM SENATOR GRASSLEY*Home Health Care -- Prospective Payment System***Q13: What other changes to home health benefits would you like to see?****A:**

Through the Balanced Budget Act, Congress, the Administration and the industry worked together to overhaul the home health benefit. These changes include the establishment of a PPS, the reallocation of certain home health visits from Medicare Part A to Part B, and lower payments to home health agencies under an interim payment system. The reforms will provide HCFA with needed tools to manage the extraordinary growth in the benefit.

However, other changes -- especially measures focusing on fraud in the home health industry -- are needed. These changes were announced on September 15, 1997, along with a 6-month moratorium on the entry of new home health agencies into Medicare. One key change is a requirement that home health agencies supply HCFA with information about related businesses they own. Often, unscrupulous home health providers funnel fraudulent activities through subsidiaries or "front" companies that do not actually exist. This new requirement will make those types of scams harder to carry out.

During the moratorium, HCFA will also develop regulations that will require home health agencies to re-enroll in Medicare every three years. As part of the re-enrollment process, agencies will have to submit an independent audit of their records and practices. If the agency does not meet the strict new enrollment requirements, it will not be renewed as a Medicare provider.

Additional changes include a requirement that home health agencies serve a minimum number of patients prior to seeking Medicare certification and a requirement that agencies have sufficient operating funds on hand for the first three to six months. Serving private-pay patients will demonstrate experience and expertise in the field before an agency is allowed to serve Medicare and Medicaid's vulnerable populations. The cash requirement will establish the financial stability of home health providers.

Finally, I believe we need to direct more resources to audits of home health agencies. Effective September 15th, HCFA re-directed \$10 million in Medicare Integrity Program funds to double home health audits. If confirmed, I intend to work with the Congress to ensure that an appropriate level of resources is devoted to home health program integrity efforts.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 14 FROM SENATOR GRASSLEY

HIPAA's Fraud and Abuse Provisions

Q14: What are your thoughts about the current status of HCFA's implementation of the Medicare Integrity Program? Do you feel it is on an acceptable time frame, or will you try to speed up its implementation? How will HCFA target its resources to provide safeguard activities in the short run?

A:

Under the Medicare Integrity Program (MIP), HCFA is permitted to use competition to obtain contractors from a broad pool rather than just selecting from among current contractors. This means HCFA can now hire contractors to perform certain fraud and abuse activities as an independent third party to its current contractors. This an important new tool in the fight against fraud and abuse and must be developed carefully.

HCFA is developing regulations for selecting MIP contractors to ensure consistency in its approach before competition is used to award contracts. Because these contracts are a new way of doing business for HCFA, regulations must be carefully and thoughtfully developed. The regulations will address important issues such as identifying the characteristics of entities who can compete, and clearly defining when a conflict of interest exists. The current schedule balances HCFA's needs to use competition and ensures that time is available for regulations to be well constructed.

Although the law does not require HCFA to have final regulations in place prior to completing these contracts, a new statement of work must be developed for these contracts. The agency is in the final stages of writing this new statement of work and will initiate competition once the NPRM is published this year.

HCFA will continue to target MIP funds to support the fundamental activities as specified by legislation: Medical Review, Audit, Fraud and Medicare Secondary Payment. In FY 1997, \$128.3 million was spent on medical review activities with a return of investment (ROI) of \$14 for every dollar spent; \$152.3 million for audits (ROI of \$7 to \$1); \$109.3 million for Medicare Secondary Payer (ROI of \$30 to \$1) and \$51.2 million for program integrity or anti-fraud activities. HCFA will continue to target MIP funding to scrutinize those services with the highest numbers of fraudulent claims and providers.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 15 FROM SENATOR GRASSLEY

Without MTS – Cross-Checking Claims

Q15: What will you do to assure that Medicare claims are thoroughly checked under the current configuration of systems? Do you believe that HCFA will award another contract to develop an integrated database?

A:

HCFA's contractors process over 800 million claims a year. These claims are subjected to a rigorous prepayment electronic screening process to verify beneficiary information, provider information, utilization history, procedure and diagnosis, and coordination of benefits. Each computer instruction that verifies information on a claim is called an "edit."

These edits are performed to determine whether a particular beneficiary is enrolled in Medicare, and whether all co-payments and deductibles have been met. HCFA's contractors also perform a series of edits to determine if the provider is eligible and is in good standing with the Medicare program. Claims are then edited for utilization history. For example, the contractor's systems will only pay one claim in a patient's lifetime for an appendectomy. Many claims are also checked to verify if the procedure being billed for is appropriate for the diagnosis. Finally, the contractors coordinate benefits to determine if a beneficiary has other coverage that is primary to Medicare. In total, HCFA's contractors have thousands of these edits in place which perform a comprehensive review of each claim before Medicare payment is made for a service. HCFA is constantly searching for ways to update and improve its claims processing technologies. One example of this is the agency's work with Los Alamos National Laboratory to develop state-of-the-art prepayment review technology using mathematical models and algorithms.

I do not think that HCFA will award another omnibus contract for development of a single integrated information system. If confirmed, I would not support such an approach. The agency has learned that this approach is not manageable, carries great risks, and is not the wisest investment of resources. HCFA is still in the process of carefully analyzing all alternatives for proceeding with the automation changes that will ensure that HCFA maintains cutting edge technology to be able to process claims well into the next century. As GAO and others have suggested, these changes can be made in a more prudent and manageable fashion by breaking them down into smaller, more directed contracts. For example, HCFA must develop a new managed care payment system. The current system was designed in the 1970s and cannot handle the volume of plans HCFA has today, much less the volume it anticipates in coming years. Presently, the agency is looking at alternatives for turning the requirements it will receive from GTE into software to meet its payment responsibilities. I expect that each new automation effort will be approached in a similar incremental manner.

Responses for the Record:

Confirmation of Nancy-Ann Min DeParle

53

QUESTION 16 FROM SENATOR GRASSLEY*HCFA Monitoring of Health Plans and Enforcement Actions*

Q16: Should HCFA do more to monitor health plans' performances when beneficiaries' abilities to switch plans are curtailed? What type of actions should HCFA take to correct problems at poor-performing HMOs?

A:

I think there should be a different program response to monitoring health plans' performances because of the operational disenrollment changes contained in the new Medicare+Choice legislation. This will apply not only to HMOs, but to all the new managed care provider types created by the new legislation. It is uncertain, however, if increasing current monitoring activities based upon existing techniques is the answer. HCFA is reviewing its current compliance monitoring methods, systems, and policies with the intent to either make the current approach more efficient or, if it is more appropriate, to approach the issues of quality care assurance and protection of beneficiaries from new perspectives. Together with the managed care industry, the agency will look at the most successful approaches for product quality assurance and consumer protection in both the private sector and governmental agencies.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 17 FROM SENATOR GRASSLEY***Comparative Information to Aid Informed Choice***

Q17: What do you think HCFA should do to make benefits coverage terminology understandable and comparable for beneficiaries?

A:

Through HCFA's market research, the agency is finding more appropriate ways to target and tailor its message to seniors. HCFA continues to look for better ways to ensure that all beneficiaries have access to information that will assist them in making informed health care choices.

The BBA mandates that HCFA provide comparative information to beneficiaries on their Medicare+Choice options. The BBA also provides funding for this effort by authorizing HCFA to tap contracting plans for the cost of these materials and related activities.

HCFA has already done development work on comparative materials for the competitive pricing demonstrations. Its contractor for those demonstrations did significant work developing and testing formats for conveying comparative information. Draft materials were presented to focus groups to determine whether the materials were helpful and understandable. Modifications were then made based on feedback from these sessions and materials were then retested.

In addition to the development work done for the demonstrations, a number of the HCFA regions have had efforts to make comparative information available for use of local media, beneficiary organizations, and the aging network. HCFA will soon be making comparative information available on managed care options nationwide through the Internet.

While well-designed comparison charts will assist beneficiaries in understanding their options, comparison is hindered by the lack of standardization in regard to additional and supplemental benefits. The proposal to standardize the most commonly offered benefits would have helped in this regard, but unfortunately, it was not included in the BBA.

Responses for the Record:
Confirmation of Nancy-Ann Min DeParle

QUESTION 18 FROM SENATOR GRASSLEY

Ensuring Regional Consistency in a National Program

Q18: Should the "rules" for Medicare+Choice plans and Medicare beneficiaries be the same everywhere --regardless of their regional location? How can HCFA establish more consistency among its regional offices?

A:

The "rules" for the Medicare+Choice plans flow directly from the statute and from the regulations that HCFA will be developing in the months ahead. For the most part, the statute does not provide for regional differences in program rules or policies, and I do not think such differences are a good idea. There are some exceptions, however:

- County payment rates vary based on historic difference in utilization patterns and payment levels. However, these differences are greatly reduced relative to the variations under the previous payment methodology for risk plans.
- The statute mandates lower minimum enrollment requirements for rural areas than for urban areas.
- In situations where there is no national coverage policy in regard to an item or service, plans follow the local medical policy established by the medical directors of the Medicare contractors in their geographic area. These local medical review policies reflect local medical practice.

Historically, HCFA's regional offices have played a major role in the Medicare risk contracting program and will continue to play a major role in regard to Medicare+Choice. It should be noted, however, that while regional offices provide much of the oversight of plan operations, all compliance actions are taken only after central office review.

Finally, one area where some plans have expressed concerns relates to inconsistencies across HCFA regions in the review of marketing materials. This summer, HCFA issued national marketing guidelines which were developed in consultation with consumer groups, health plans and state regulators. These guidelines will help to assure uniform review of marketing materials across HCFA regions.

Responses for the Record:
Confirmation of Nancy-Ann Min DeParle

QUESTION 19 FROM SENATOR GRASSLEY***Home Health --HCFA oversight*****Q19: What do you think HCFA's regulatory role should be in the Medicare program?****A:**

In light of the growth in the home health benefit and the fraud and abuse plaguing the industry, HCFA's role must be more aggressive than it has been in the past. HCFA should enhance its oversight of providers, and tighten up requirements for agencies currently in the program and those seeking entry. The home health initiative HCFA announced on September 15, 1997, which was more fully described in response to one of your previous questions, outlines HCFA's role in administering the home health benefit. HCFA will also continue its longstanding efforts in the survey and certification process to ensure providers are furnishing beneficiaries with high-quality care. To this end, HCFA has proposed new Medicare conditions of participation for home health agencies. The proposed conditions strongly encourage providers to evaluate and continuously improve the quality of services provided to beneficiaries. The revised standards will also place greater emphasis on giving consumers information from which they can base their health care choices.

QUESTION 20 FROM SENATOR GRASSLEY

Contractor Transitions

Q20: What should be done to encourage good contractors to keep their Medicare business?

A:

There will be changes in Medicare administration and contracting as HCFA moves forward and addresses the key issues facing the program today, especially the problem of fraud and abuse and the implementation of the Medicare+Choices in the Balanced Budget Act (BBA). However, HCFA recognizes that Medicare intermediaries and carriers will continue to play a very important role in the program over the next few years, and HCFA believes there will be a place in Medicare for those contractors which have strong track records of integrity and performance.

This question gets to some difficult decisions that HCFA will have to make in the near future, because the funding issue cannot be left out of the equation. There are contractors who want to continue to serve as Medicare claim administrators that express concern about a perceived disconnect between HCFA's expectations and the funding levels appropriated to meet these expectations. Over the past few years, HCFA has pushed the contractors to meet tough budgetary goals and the real cost per claim processed has accordingly dropped substantially. This has largely been achieved by making Medicare the industry leader in the use of electronic technology for claims submission and payment, and through consolidation of computer processing functions.

There are limits to the additional savings that can be achieved through these mechanisms, and it will be very challenging to manage growing claims volume under the current funding scenario. So one part of the solution to this question will be to engage the contractor community in honest discussions about the inherent tradeoffs between the underlying cost of service, program performances and funding

HCFA also recognizes that its contractors consider their participation in Medicare fee-for-service from a larger business context. HCFA's contractors, who were once simply bill-paying entities, are today becoming providers of care. In fact, most of its contractors are targeting their business plans towards lines of business that offer profit potential, including Medicare risk contracts.

At the same time, HCFA must carefully examine the potential for real or perceived conflict of interest between the Medicare fee-for-service business and the private business interests of carriers and intermediaries. Congress asked HCFA to address this issue as part of the Medicare Integrity Program (MIP) legislation enacted last year and the agency will shortly publish proposed regulations to do so.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

- QUESTION 21 FROM SENATOR GRASSLEY

*Contractor Transitions***Q21: What can be done to expand the pool of contractors?****A:**

As you know, HCFA has done business with most of the current intermediary and carrier contractor pool for a very long time, many since the inception of the program. As some of them have left the program, the work has been assumed by other members of the existing community. This has occurred because there are statutory restrictions on who may serve as a Medicare contractor. In recent years, HCFA has submitted contractor reform legislation that proposes to remove some of these restrictions. If this legislation was enacted, HCFA could move to engage the business community and try to develop the capacity in capable firms to do its work.

HCFA is currently engaged in this process with respect to contracts for Medicare payment integrity activities under the Medicare Integrity Program (MIP) established in the Health Insurance Portability and Accountability Act. The MIP authority states that HCFA may continue to contract for performance of payment integrity functions through the "traditional" intermediary and carrier network, but it also provides the agency with the authority to break these functions out of this network when this makes sense and contract for the functions on a competitive basis. Based on open meetings HCFA has had with the industry, the agency believes there is significant interest in these contracts. HCFA has learned, however, that many companies do their business planning several years ahead and that they need advance notice of potential opportunities with HCFA in order to target their capabilities to meet HCFA's needs.

Use of this new authority will expand the contractor pool, but only for payment integrity functions. Additional legislative authority is needed to use entities other than insurance companies for claims processing and payment functions, and if confirmed, I would be pleased to work with the Congress on this issue.

QUESTION 22 FROM SENATOR GRASSLEY*Contractor Transitions*

Q22: What can HCFA do to ensure smooth transitions when work is transferred to a different contractor?

A:

HCFA's recent performance in managing contractor transitions has been very strong. The agency has completed dozens of contractor and contractor systems transitions in the last several years that have been very smooth for beneficiaries and providers. HCFA has developed a staff that specializes in this activity, "how to" manuals that address the issues raised by contractor transitions and the work that needs to be done, and strong protocols and standard operating procedures for ensuring that all the handoffs that need to be made are done timely and effectively.

In managing contractor transitions, the critical contractor-side issues are to ensure that the incoming contractor builds its organization and gets up to speed quickly, that the outgoing contractor maintains productivity and departs the program in orderly fashion, that operational differences between the new and old contractor are identified and addressed, and that everyone communicates a consistent message to beneficiaries and providers. The HCFA role is to be proactive, to require good transition plans from all the parties involved, and to monitor progress and ensure that problems are addressed early in the process.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 23 FROM SENATOR GRASSLEY***Without MTS --Tracking Medicare+Choice Plans***

Q23: Can HCFA's existing data systems handle the new data collection and reporting requirements of the BBA? What is HCFA doing to assure that it can provide the required information and meet the timetables of the BBA?

A:

The current information system will need to be modified to begin the implementation of the Medicare+Choices program. Progress has been made in finalizing the requirements for the data information systems that will be needed from the GTE contract. This will position the agency to improve its existing managed care information system, and the next step is to analyze the data and design the new system.

HCFA is now reviewing the requirements of the new BBA legislation to determine precisely what changes need to be made and by when.

HCFA expects to meet the statutory implementation time frames for the Medicare+Choices program and, if confirmed, I will keep you and the Finance Committee informed of the agency's implementation progress.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 24 FROM SENATOR GRASSLEY

ACR Proposal Process and Profits of Medicare+Choice Plans

Q24: What steps should HCFA take to ensure that Medicare+Choice plans do not earn excess profits on the Medicare contracts?

A:

In general, neither the law governing the risk contract program nor the Medicare+Choice provisions in the BBA provide for any explicit limit on plan profits. Projected profits are, however, included in the plan's Adjusted Community Rate (ACR) proposal which is reviewed annually by HCFA. The ACR is used to determine the value of additional benefits that a plan is required to provide.

The ACR includes components for both administrative costs (including profit) and benefit costs derived from the plan's commercial premium rate. In computing the ACR, plans adjust benefit costs included in their commercial premium to reflect the difference in utilization between the commercial and Medicare populations (adjustments are also made for differences in benefits).

Under the risk contract program, plans were allowed to adjust administrative costs by the same factor used to adjust benefit costs. Thus, if Medicare utilization is generally 4 times greater than commercial utilization, the amount of profit built into the ACR was 4 times the dollar amount of profit built into the commercial premium.

In general, plans did not actually earn these higher profit levels since they provided "free" benefits separate from the additional benefits that they were required to provide under the law.

The ACR process under the risk program had been criticized by GAO and PPRC and HCFA had been exploring options for improving the accuracy of ACRs. These efforts will now be incorporated in BBA implementation. Among other steps, HCFA is considering:

- placing more reliance on data from actual plan experience during a previous 12 month period;
- separating profits from administrative costs; and
- using the new BBA audit authority to assure the accuracy of the ACR submission.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 25 FROM SENATOR GRASSLEY*Availability and Use of Health Plans' Disenrollment Statistics*

Q25: What efforts are being made to assure that comparative disenrollment data are available in a useful form by the mandated date? How closely should HCFA monitor plans' disenrollment rates?

A:

HCFA has been piloting various types of disenrollment statistics and is evaluating which will be the most useful and understandable for its beneficiaries when comparing rates across plans. The first version should be available for release in November, 1998. HCFA has been working with SSA to expand the reporting category on the reasons why a beneficiary is disenrolling for those beneficiaries who elect to disenroll through the SSA District Office. This expanded data will provide HCFA with better information on the reasons for disenrollment and serve as an alert for possible plan problems. HCFA is also examining a protocol that tracks the disenrollment behaviors of a cohort of new enrollees over the course of a year. This method promises to give us highly accurate information on plans' relative retention and loss of members.

Disenrollment rates should be monitored very closely. Rapid disenrollment (less than 3 months) may be an indication of marketing problems and beneficiary misunderstanding of managed care. Disenrollment after a year or more in a plan may be linked to quality and access problems. Therefore, HCFA intends to look at all of these aspects of disenrollment over time for each plan.

Responses for the Record:
Confirmation of Nancy-Ann Min DeParle

QUESTION 26 FROM SENATOR GRASSLEY

HIPAA's Requirements for Health Data Automation and Standards

Q26: What do you think HHS's long-term strategy and schedule for developing these standards should be? What are the major roadblocks to developing these standards?

A:

The Administrative Simplification provisions of the Health Insurance Portability and Accountability Act of 1996, or P.L. 104-191 (HIPAA) are aimed at reducing cost and administrative burden in the health care industry. This Act requires the Department of Health and Human Services to adopt uniform national standards for the electronic transmission of certain health information. The electronic transmissions covered by HIPAA include: transactions (including: claims, enrollment, claims status, and 7 others); unique identification numbers for health providers, health plans, employers and individuals; and standards for code sets, security, and privacy.

The development of the mandated standards has been managed through a three level process within the Department: 1) the HHS Data Council provides senior level policy guidance and serves as the contact point for the National Committee on Vital and Health Statistics, 2) the Data Council's Health Data Standards Committee is comprised of agencies within HHS, the Office of Management and Budget, DOD, VA and other government agencies, and is responsible for the management of all standards activities; and 3) six implementation teams, with representatives from HCFA, the Department and other federal government agencies, are responsible for the research, analysis, and development of the national standards

In addition, HCFA has implemented an aggressive outreach program which includes meeting with the health care industry, other affected organizations and groups, and the public.

The following table outlines the implementation schedule of the Administrative Simplification mandates:

| | |
|----------------|--|
| June 1997 | Recommendations for initial standards completed (except security and identifiers for individuals and employers). |
| September 1997 | The Secretary's recommendations for privacy legislation were sent to Congress. |
| October 1997 | Draft regulations are to be published in the <u>Federal Register</u> ; a 60-day comment period begins |

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 26 FROM SENATOR GRASSLEY CONTINUED

| | |
|---------------|--|
| February 1998 | Final Regulations will be issued. |
| February 2000 | Deadline for health data standards to be implemented; for small health plans, the deadline is February 2001. |

HCFA and the Department have worked hard to meet with health care industry representatives, members of the public, and others who will be affected by this important legislation. Nevertheless, there are a number of major issues associated with these standards that HCFA continues to work on.

There are significant cost and privacy issues involving the recommendation of an individual identifier. The HIPAA law recognized the importance of protecting confidential health care information. At the request of the National Committee on Vital and Health Statistics and the HHS Data Council, the Department is currently studying whether the standard for an individual identifier should be selected at this time, or whether the selection should wait until privacy legislation is in place.

The consultative process with the health care industry leads HCFA to conclude that it will receive a large number of comments on the proposed rules and many of those comments will deal with the perceived brevity of the law's 2-year implementation time frame. In light of this, HCFA is exploring options and alternatives for promoting a smooth industry transition to the standards, and at the same time, meeting the statutory deadlines.

Governance responsibility, start-up resources, and responsibility for ongoing operations of the infrastructure are major issues. In some cases, the government may be the appropriate place to provide the infrastructure; in other cases, the private sector may be appropriate. Still in other cases, a public-private partnership may be desirable. The available options are being explored and will be released for public comment in the NPRMs.

HCFA continues to explore the issues surrounding proprietary standards. Existing coding systems historically have been used to support payment processes, and typically were not designed to evaluate outcomes, determine quality care, or evaluate health plan performance. In order to address these deficiencies, it may be possible to propose a general framework within which proprietary responsibility can be managed and integrated with public domain and federal standards.

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

QUESTION 27 FROM SENATOR GRASSLEY*Development of Health Status Risk Adjustors*

Q27: Do you think HCFA can meet the March 1999 reporting date specified by the BBA? Will the encounter and other data collection requirement for risk adjustment be tied to the data standards required in HIPAA?

A:

Risk adjustment models incorporating hospital data only, as well as models that include hospital, inpatient, and outpatient data have already been completed. Analyses of different payment approaches are underway. These efforts should ensure that HCFA will be able to meet the March 1999 reporting date specified by the BBA. These data efforts are consistent with HIPAA standards

*Responses for the Record:
Confirmation of Nancy-Ann Min DeParle*

PREPARED STATEMENT OF TIMOTHY F. GEITHNER

Mr. Chairman, Senator Moynihan, and Members of the Committee, I am honored to appear before this distinguished committee as you consider my nomination to be Assistant Secretary of the Treasury for International Affairs. I am pleased to be here with my family: my wife, Carole; my children, Elise and Benjamin; and my father and brother; as well as a number of close friends.

As a career civil servant at the Treasury for the past nine years, it has been my privilege to serve in the Administrations of President Reagan, President Bush, and President Clinton in a number of positions involved with promoting our interests in the international economy and global financial system. I am deeply honored by the confidence expressed by the President and Secretary Rubin in me, and in the career civil service at the Treasury, by nominating me for this position.

I currently serve as the Senior Deputy Assistant Secretary for International Affairs. In this capacity, I have been involved in strengthening our economic and financial relations with the major industrial countries and the nations of Asia, promoting international financial stability, and expanding opportunities for trade.

The United States now faces a number of important challenges in the world economy. Our most important priorities include promoting global growth through cooperation in the G-7 and other fora, strengthening the international financial system, supporting sustainable development and market-oriented reforms in the transition and developing economies, and expanding opportunities for trade. If confirmed as Assistant Secretary, I will have the honor of continuing to contribute to the policies pursued by Secretary Rubin in response to these challenges.

These objectives are important to the economic strength of our nation, because as our economy and our financial markets become more integrated with the rest of the world, growth and stability abroad become more important to growth and stability at home.

Leadership by the United States is important to advancing our interests in these areas, and we cannot lead effectively without the involvement and support of the American people and the United States Congress. For this reason, I have been part of an active and meaningful process of consultation with the Congress in my tenure at Treasury. I am committed to working closely with this Committee and the entire Congress, if I am given the opportunity to serve in this position.

If confirmed as Assistant Secretary, I will work to uphold the formidable standards of professionalism and integrity set by David Lipton and his distinguished line of predecessors.

Thank you, Mr. Chairman. I would be happy to answer any questions.

The White House,

19

1877

To the

Senate of the United States.

I nominate

Timothy F. Geithner, of New York,

to be a Deputy Under Secretary of the Treasury, vice David A.

Lipton.

William S. Clinton

DRAFT

DRAFT

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

July 11, 1997

**PRESIDENT CLINTON NAMES TIMOTHY F. GEITHNER TO BE ASSISTANT
SECRETARY FOR INTERNATIONAL AFFAIRS AT THE
U.S. DEPARTMENT OF THE TREASURY**

President Clinton today announces his intent to nominate Timothy F. Geithner to be Assistant Secretary for International Affairs at the Department of the Treasury.

Mr. Geithner of New York, serves as the Senior Deputy Assistant Secretary for International Affairs. Prior to serving in that position, he served as the Deputy Assistant Secretary for International Monetary and Financial Policy. Mr. Geithner has been an employee of the Department of the Treasury for nine years. He received a B.A. in Government and Asian studies from Dartmouth College in 1983, and a M.A. in International Economics and East Asian Studies from Johns Hopkins University in 1985.

The Assistant Secretary for International Affairs advises and assists the Secretary, Deputy Secretary and the Under Secretary for International Affairs in the formulation and implementation of U. S. international economic policy. Specifically, this office formulates, evaluates and implements Department policy concerning international economics and financial diplomacy; maintenance and operation of a smoothly functioning international monetary system; coordination of economic policy among industrial nations (G-7); economic, financial and environmental issues pertaining to U.S. participation in the multilateral development banks; and policy regarding international trade financing.

-30-30-30-

Timothy F. Geithner

**SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)
Timothy Franz Geithner
2. Position to which nominated:
Assistant Secretary of the Treasury for International Affairs
3. Date of nomination:
July 11, 1997
4. Address: (List current residence, office, and mailing addresses.)

5706 Harwick Road
Bethesda, MD 20816
301/320-6053

Department of the Treasury
Room 3221
1500 Pennsylvania Avenue, NW
Washington, DC 20220
202/622-0658
5. Date and place of birth:
August 18, 1961
New York, NY, USA

Timothy F. Geithner

6. **Marital status: (Include maiden name of wife or husband's name.)**

Married to Carole Marie Sonnenfeld Geithner

7. **Names and ages of children:**

Elise M. Geithner, 5 (dob 6/23/91)
Benjamin N. Geithner, 3 (dob 4/7/94)

8. **Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)**

Johns Hopkins, School for Advanced International Studies, 9/83 to 5/85; Masters degree in International Economics and East Asian Studies awarded May 1985.

Dartmouth College, B.A. in Government and Asian Studies, 9/79-6/83; June 1983.

Beijing Normal University, PRC, Summer 1982

Beijing University, PRC, Summer 1981

9. **Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)**

| | | | |
|--|---------------|----------------|-----------------|
| Senior Deputy Assistant Secretary (International Affairs) | U.S. Treasury | Washington, DC | 2/97 to Present |
| Deputy Assistant Secretary (International Monetary and Financial Policy) | U.S. Treasury | Washington, DC | 3/94 to 2/97 |
| Special Assistant to the Under Secretary for International Affairs | U.S. Treasury | Washington, DC | 4/92 to 3/94 |

Timothy F. Geithner

| | | | |
|--|----------------------------|----------------|--------------|
| Special Assistant to the Assistant Secretary for International Affairs | U.S. Treasury | Washington, DC | 4/90 to 4/92 |
| Assistant Financial Attache | U.S. Treasury | Tokyo, Japan | 6/90 to 4/90 |
| Assistant to the U.S. Financial Services Negotiator | U.S. Treasury | Washington, DC | 8/89 to 6/90 |
| International Economist, Office of International Trade | U.S. Treasury | Washington, DC | 7/88 to 8/89 |
| Research Associate | Kissinger Associates, Inc. | Washington, DC | 8/85 to 7/88 |
| International Economist | OPIC | Washington, DC | 6/84 to 6/85 |

10. **Government experience:** (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)

None.

11. **Business relationships:** (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

None.

12. **Memberships:** (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

Council on Foreign Relations, Term Member since 1996.

13. **Political affiliations and activities:**

Timothy F. Geithner

- a. List all public offices for which you have been a candidate.
None.
- b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.
None.
- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.
None.

14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)

Asia-Pacific Young Professionals, 1987
Association of Diplomatic and Consular Officers, Retired Fellowship for
Graduate Study in International Affairs, 1994
Mobil Oil Corporation Grant, 1981
Xerox Corporation Grant, 1981

15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)
None.

16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with two copies of each formal speech.)

I have delivered a number of speeches in my official capacity at Treasury, but, until my promotion to Senior Deputy Assistant Secretary, all have been informal, off the record, and without released text. The speech as U.S. Governor to ADB was made after that time. Attached is a copy of that speech.

Speech as U.S. Governor to ADB 5/12/97 Japan

Timothy F. Geithner

17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

I have served with distinction in a wide range of positions for eight and a half years as a career civil servant in the Office of the Assistant Secretary for International Affairs, including the most senior positions available to a career civil servant at the Treasury, Deputy Assistant Secretary of the Treasury for International Monetary Affairs and Financial Policy (since March 1994) and Senior Deputy Assistant Secretary of the Treasury for International Affairs (since February 1997).

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

Not applicable, since my sole employer at present is the U.S. Treasury Department.

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

No.

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

No.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

None.

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

None.

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

None.

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with two copies of any trust or other agreements.)

I do not believe that any of my responses to the items in this questionnaire raise the issue of a conflict of interest. However, if I become aware of any potential conflict of interest in connection with the performance of my official duties following my appointment as Assistant Secretary, I will consult promptly with Treasury's ethics counsel in order to comply with all applicable laws and regulations.

5. Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.
6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

Not applicable.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No.

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.

No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

Not applicable.

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes.

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes.

Question 1 for Assistant Secretary Timothy Geithner

In 1995, the United States decided not to sign a WTO agreement on trade in financial services because other countries had not offered sufficient commitments to open their markets. Negotiations on trade in financial services have been renewed and are scheduled to conclude in December. What is the Administration doing to ensure better access to foreign markets for U.S. financial providers? What are the prospects for getting a good agreement in December?

For the United States, a successful WTO financial services agreement must address certain fundamental principles. We want U.S. firms to be assured non-discriminatory market entry and the right to own and control their own investments in foreign markets. Existing rights and activities U.S. firms may have in a market must be grandfathered and U.S. firms must be accorded market access and national treatment with respect to the business activities they are permitted to undertake in a given foreign market.

This is an ambitious agenda. To encourage key emerging markets to bind open their markets to U.S. firms, Secretary Rubin has written to our negotiating partners to underscore our willingness to work creatively in the negotiation to address the fullest range of legitimate emerging market concerns. We will consider phased commitments over agreed time frames as well as other measures which we believe can smooth the transition to a more open economic environment. In addition, at all levels including the most senior, in Geneva as well as in Washington and foreign capitals, we are engaging foreign governments and U.S. industry to identify and resolve individual country problems.

Nevertheless, this is a difficult negotiation. To reach a successful conclusion, it is essential that our trading partners, especially a number of key emerging markets, make substantial improvements to their offers before the December 1997 negotiating deadline.

PREPARED STATEMENT OF GARY GENSLER

I am honored to appear before you today as the President's nominee to be Assistant Secretary of the Treasury for Financial Markets.

I am particularly pleased to have my family with me on this very special day: my wife, Francesca; my three daughters, Anna, Lee and Isabel; my parents, Sam and Jane Gensler; and my brother, David. When I was asked earlier this year to join the Treasury, I sought the advice of those closest to me. And we decided, as a family, to accept the opportunity—and obligation—of government service. I want to thank them for their support over the last few months and, if confirmed, their support in the years to come.

The prospect of public service is, for me, an exciting one. I see my service at the Treasury as a way in which I can return something to our country which has given me so much.

I consider myself very fortunate. I grew up in Baltimore surrounded by a strong extended family. I received a first-rate education in the public schools of my home state of Maryland and at the University of Pennsylvania. I have worked as an investment banker during a period of unparalleled growth in the scope, speed, and complexity of financial markets.

I am determined to use my skills and experience in ways that promote and protect the public interest. I cannot stress this point enough.

The broad matters of federal, state and local finance for which the Assistant Secretary for Financial Markets is responsible may seem esoteric. They can, indeed, be highly technical. I am acutely aware, however, of their importance to the fiscal health of the Federal government and to our economic well-being as a nation. I assure you that, like the President and Secretary Rubin, I am committed to these objectives.

I believe that I come well prepared for the position to which I have been nominated. After studying finance and accounting at the Wharton School, I joined Goldman Sachs, my professional home for the last 18 years. As an employee and later as a partner, I have had broad experience, both direct involvement and as a manager, in domestic and international financial markets. I have participated in trading, merger advisory work and financial control.

The trust placed in me by the President and Secretary Rubin is a great honor. And I intend, if confirmed by the Senate, to discharge this trust in a way that will fully justify their confidence—and yours.

I now look forward to answering your questions and, if confirmed, to working closely with this committee, its members and your staff.

**SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

A. BIOGRAPHICAL INFORMATION

1. Name: Gary Gensler
2. Position to which nominated: Assistant Secretary of the Treasury for Financial Markets
3. Date of nomination: June 27, 1997
4. Address: Current Residence: 115 Central Park West
Apartment 19F
New York, NY 10024

Maryland Residence: 105 E. Melrose Street
Chevy Chase, MD 20815

Office: 85 Broad Street
New York, NY 10004
5. Date and place of birth: October 18, 1957, Baltimore, MD
6. Marital status: Married to Francesca Danieli
7. Names and ages of children: Anna (7 years old), Lee (5 years old), & Isabel (8 months old)
8. Education: Pikesville Senior High School (Baltimore, MD), 1972 - 75, High School Diploma, 1975; The Wharton School, University of Pennsylvania (Philadelphia, PA), 1975 - 78, Bachelor of Science in Economics, summa cum laude, 1978; The Wharton Graduate Division, University of Pennsylvania, 1977 - 79, Master of Business Administration, 1979

9. **Employment record:** I am a partner of The Goldman Sachs Group, L.P. ("Goldman Sachs") I was elected to the partnership in 1988. I joined Goldman Sachs as an associate in 1979 and was promoted to vice president in 1983. A summary of my experience at Goldman Sachs follows:

Co-Head of Finance, New York 1995 - 1997
Oversee all Treasury and Controller functions worldwide. Manage 500 employees. Serve on firm's Budget, Credit, Diversity, Finance, Global Compliance, and Risk committees.

Chief Financial Officer, Asia 1994 - 1995
Headed all control and support divisions in Asia. Managed 400 employees in seven countries.

Co-Head, Fixed Income Division, Tokyo 1992 - 1994
Led fully integrated fixed income and currency trading businesses. Managed 100 sales, trading, research, and underwriting professionals. Achieved two record years, with annual revenues surpassing \$300 million.

Head of Media Group, Mergers and Acquisitions, NY 1984 - 1991
Managed the media and communications effort. Clients included the Newhouses, Cap Cities/ABC, Westinghouse, Knight-Ridder and the NFL. Closed individual transactions with values of up to \$1.6 billion. Partner responsible for all fairness and valuation opinions for the firm.

Member, Mergers and Acquisitions, NY 1979 - 1984
Analyzed, structured and negotiated a broad range of merger transactions including exclusive seller projects, hostile takeover defenses, buyer projects, leveraged buy-outs, and general corporate advisories.

10. **Government experience:** None

11. **Business relationships:** I am a General Partner in the following affiliates of Goldman Sachs: Advisory Mezzanine Partners, L.P.; Advisory Partners, L.P.; Aqueous Partners, L.P.; Broad Street Contract Partners; Brook-Cadman Partners; GS Alliance Partners, L.P.; GS Red Tail Partners; GSEJV Investors, L.P.; GSEM Partners; MTGLQ Investors, L.P.; PIA Partners I; PIA Partners II; Sable Partners, L.P.; Stone Street Contract Partners; and Switchback Ventures. I am a Class B Partner in the following Goldman Sachs affiliates: Goldman Sachs (AO) L.L.C.; Goldman Sachs Argentina L.L.C.; Goldman Sachs (Asia Pacific) L.L.C.; Goldman Sachs (Asia) Finance Holdings L.L.C.; Goldman Sachs (Asia) L.L.C.; Goldman Sachs Australia L.L.C.; Goldman Sachs (China) L.L.C.; Goldman Sachs (India) L.L.C.; Goldman Sachs Research L.L.C.; Goldman Sachs (UK) L.L.C.; and J. Aron Resources L.L.C. I am a Limited Partner in The Goldman Sachs Group, L.P. I am a stock holder in the following affiliates of Goldman Sachs: Goldman Sachs (Mauritius) L.L.C. and SSII, Inc. I am a Managing Director of the following affiliates of Goldman Sachs: Goldman Sachs (Asia Pacific) L.L.C.; Goldman Sachs (China) L.L.C.; Goldman Sachs (India)

L.L.C.; and Goldman Sachs & Co. I am a Director of the following affiliates of Goldman Sachs: Goldman Sachs (Asia) Finance; Goldman Sachs (Asia) Securities Limited; Goldman Sachs (Cayman) Holding Company; and Goldman Sachs Realty Management Corp. I am an Executive Vice President of the following affiliates of Goldman Sachs: The Goldman Sachs Corporation, The Goldman, Sachs & Co. L.L.C.; and The J. Aron Corporation. I am a Vice President of the following affiliates of Goldman Sachs: Goldman Sachs Capital Markets, Inc. and GSMMDPGP Inc. I am also an Assistant Treasurer of the Goldman Sachs affiliate, Hope Street Corp.

In addition, I am a National Trustee of The Baltimore Museum of Art.

12. Memberships (for the past 10 years & significant memberships for prior 5 years): The American Museum of Natural History (1992; 1996-97), The Baltimore Museum of Art (National Trustee, 1996-97), The Baltimore Symphony Orchestra (1996-97), Congregation B'Nai Jeshurun (1987-92; 1995-97; board member for one year in 1985 or 1986), The Democratic Party (1987-97), Johns Hopkins Associates (1996-97), The Jewish Community Center (1993-95), The Museum of Modern Art, Associates Committee for the Department of Prints and Illustrated Books (1991-92; 1995-97), The New York Road Runners Club (1990-92; 1996-97), The NYU Medical Center, 1841 society (1995-97), Reebok Sports Club/NY (1995-97), Tokyo American Club (1993-95), 200 West 86th Street Co-op. (President of the Board of Directors, 1985-86)
13. Political affiliations and activities:
 - a. List all public offices for which you have been a candidate: None
 - b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years: Democratic Party (no positions or duties)
 - c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

| Federal Contributions | Office | Amount | Date |
|--|---------------------------|---------------|-------------|
| 1996 | | | |
| Clinton/Gore '96 | President | \$ 1,000 | 11/20/95 |
| Democratic Senatorial Campaign | National Party Committee | \$ 20,000 | 12/19/96 |
| Goldman Sachs Partners PAC | Multi-Candidate Committee | \$ 1,250 | 2/13/96 |
| Markey for Congress | U.S. House | \$ 1,000 | 6/16/96 |
| 1995 | | | |
| Democratic Senatorial Campaign | National Party Committee | \$ 20,000 | 12/26/95 |
| Goldman Sachs Partners PAC | Multi-Candidate Committee | \$ 1,800 | 3/27/95 |
| 1994 | | | |
| Ben Cardin for Congress | U.S. House | \$ 1,000 | 11/2/94 |
| Citizens for Sarbanes | U.S. Senate | \$ 1,000 | 11/3/94 |
| Goldman Sachs Partners PAC | Multi-Candidate Committee | \$ 1,800 | 4/4/94 |
| Hoyer for Congress | U.S. House | \$ 1,000 | 8/25/94 |
| Mfume for Congress | U.S. House | \$ 1,000 | 11/4/94 |
| 1993 | | | |
| Goldman Sachs Partners PAC | Multi-Candidate Committee | \$ 1,150 | 10/28/93 |
| 1992 | | | |
| Ben Cardin for Congress | U.S. House | \$ 1,000 | 6/17/92 |
| Goldman Sachs Partners PAC | Multi-Candidate Committee | \$ 1,000 | 4/16/92 |
| Elizabeth Holtzman for Senate | U.S. Senate | \$ 500 | 11/21/91 |
| 1991 | | | |
| Goldman Sachs PAC | Multi-Candidate Committee | \$ 750 | 2/28/91 |
| 1990 | | | |
| Ben Cardin for Congress | U.S. House | \$ 1,000 | 10/90 |
| Goldman Sachs PAC | Multi-Candidate Committee | \$ 500 | 3/25/90 |
| Hoosiers for Baron Hill | U.S. Senate | \$ 250 | 6/27/90 |
| Hoyer for Congress | U.S. House | \$ 1,000 | 10/90 |
| Harvey Sloane for Senate | U.S. Senate | \$ 250 | 6/20/89 |
| 1989 | | | |
| Goldman Sachs PAC | Multi-Candidate Committee | \$ 500 | 6/14/89 |
| State & Local Contributions | | | |
| Goldman Sachs NY PAC | Multi-Candidate Committee | \$ 1,250 | 2/13/96 |
| Goldman Sachs PAC II | Multi-Candidate Committee | \$ 800 | 10/28/93 |
| Goldman Sachs PAC III | Multi-Candidate Committee | \$ 2,500 | 10/28/93 |
| Goldman Sachs PAC III | Multi-Candidate Committee | \$ 2,750 | 4/8/92 |
| Goldman Sachs PAC III | Multi-Candidate Committee | \$ 2,500 | 2/28/91 |
| Goldman Sachs PAC III | Multi-Candidate Committee | \$ 2,500 | 3/25/90 |
| Goldman Sachs PAC III | Multi-Candidate Committee | \$ 1,250 | 6/14/89 |

14. **Honors and Awards:** While at the University of Pennsylvania, I received the Joseph W. Yardley Award for outstanding senior thesis and was selected as a member of the Beta Gamma Sigma National Honor Society, the Beta Alpha Psi National Accounting Honor Society and the Sphinx Service Honor Society. In addition, while attending the Wharton Graduate Division, I received a teaching fellowship from the Department of Accounting under which I taught undergraduate accounting.
15. **Published writings:** None
16. **Speeches:** None
17. **Qualifications:** I have spent the last 18 years as a partner or employee of Goldman Sachs, an international investment banking firm. During this time, I have had broad experience, both directly and as a manager, in domestic and international financial markets. I have participated in trading, merger advisory work and financial control. I look forward to applying my experience to assist the Federal Government in its debt management, other matters of finance and management of the Department of Treasury.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

Yes, other than continuing to serve as a National Trustee of The Baltimore Museum of Art.
2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? None
3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? None
4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? Yes

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investment, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

Prior to serving as Assistant Secretary, on the date of my departure from Goldman Sachs, I will enter into an agreement with Goldman Sachs to redeem my partnership interest. As Goldman Sachs will need time to close its books related to the current year accounting period for which I will have been a partner, I will not receive a final pay-out from Goldman Sachs until approximately two to three months after my departure. The amount of the final pay-out will be calculated by Goldman Sachs as prescribed in the above referenced agreement. Although my partnership interest will not be considered redeemed for accounting and tax purposes until the final pay-out is determined and made to me, under the terms of the agreement I will relinquish all rights and obligations as a partner in Goldman Sachs and I will cease to participate in the profits as of the date of my departure except for interest on my capital from the date of my departure until the final pay-out. Upon my appointment as Assistant Secretary and until the time of the final pay-out, I will recuse myself from participation in any particular matter which directly and predictably would affect the ability or the willingness of Goldman Sachs to satisfy its obligation to me.

In addition, I will continue to be a participant in the Goldman, Sachs & Co. Employees' Pension Plan (the "Plan"), which is a defined benefit pension plan. My benefit under the Plan (which was frozen as of November 30, 1988) is approximately \$6,700 per year, which is payable to me in the form of a straight life annuity at the age of 65 or in a reduced form at the age of 55. The Plan is currently overfunded by approximately \$30 million or 38%, and as a defined benefit plan is guaranteed by the Pension Benefit Guarantee Corp. Upon my appointment as Assistant Secretary, I will recuse myself from participation in any particular matter which directly and predictably affects the ability or the willingness of the Plan to pay such benefit.

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

None known, except for that described in response to question 1 above.

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed. None
4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with two copies of any trust or other agreements.)

Apart from the recusal I have described in response to question 1, above, if, following my appointment, I become aware that the potential for a conflict of interest might arise in connection with the performance of my official duties, I will consult promptly with ethics counsel at the Department of Treasury.

5. Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.
6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? None
2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? None

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation?

My wife and I brought a suit in 1988 against a general contractor, Lyons-Minskoff, Inc., regarding a dispute involving the renovation of our apartment. The related claims were settled in 1989. In addition, my wife and I commenced an action in 1989 against Christopher Hyland and Christopher Hyland, Inc. relating to the assault by Mr. Hyland of my wife. The claim was subsequently settled.

From time to time, Goldman Sachs and various affiliates have been subject to administrative agency proceedings or civil litigation.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? None
5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination. None

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so? Yes
2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees? Yes

PREPARED STATEMENT OF OLIVIA A. GOLDEN

Mr. Chairman, Senator Moynihan, distinguished Members of the Committee, my name is Olivia Golden. It is an honor for me to appear before you this morning as President Clinton's nominee to be Assistant Secretary for Family Support in the U.S. Department of Health and Human Services (HHS). As you know, if I am confirmed for the statutory position of Assistant Secretary for Family Support, I will also serve as Assistant Secretary for Children and Families, a position created in an administrative reorganization of HHS' human services programs in 1991.

Today, I am pleased to be accompanied by my mother, Hilda Golden.

From 1993 to 1996, I had the privilege of serving at HHS as Commissioner of the Administration on Children, Youth and Families (ACYF). In September of 1996, I became the Acting Assistant Secretary for Children and Families, and I currently serve as the Principal Deputy Assistant Secretary in the Administration for Children and Families (ACF).

The Administration for Children and Families brings together a range of programs that assist families in moving towards self-sufficiency and support children's healthy development, including the Temporary Assistance for Needy Families (TANF) program, child support enforcement, Head Start, child care, child welfare and many other vital services. ACF is the lead agency for implementation of three titles of last year's welfare reform legislation, TANF, child care and child support, and it will also play an important role in partnership with the Department of Labor in carrying out data collection and evaluation responsibilities for the \$3 billion welfare to work jobs challenge enacted as part of the Balanced Budget agreement. If confirmed, I am deeply committed to working with state and community partners to achieve the critical goals of these reforms: moving families from welfare to work, ensuring parental responsibility for children through a tough and effective system of child support enforcement, and protecting and promoting children's well-being and healthy development.

If confirmed, I will bring to ACF a breadth of experience and leadership that I believe has prepared me to accomplish these goals. My career has combined state and federal-level public management, scholarship, teaching and community leadership in the fields of child and family policy, employment and training policy, and welfare policy. I began my career in state government in Massachusetts as a budget analyst within the state's Department of Public Welfare, and later returned to serve as the Budget Director for the Massachusetts Executive Office of Human Services. I taught and wrote for four years at the Kennedy School of Government at Harvard University, focusing on employment and training policy, child and family policy, and public management. Before joining HHS, I was the Director of Programs and Policy at the Children's Defense Fund for two years, where I provided technical assistance and public education to state and local policy makers and community leaders around the country. My special interest as a public administrator and as an academic has been to determine what makes human service programs work for real people—an interest that has led me to a variety of research projects on the characteristics of innovative and effective programs, and a continued commitment to public administration that improves the delivery of human services to children and families.

These experiences culminated in my appointment as ACYF Commissioner in 1993. During my tenure as ACYF Commissioner, there are several accomplishments—achieved in partnership with states, grantees, the Congress and many others in the Administration—of which I am most proud. We worked together to ensure quality in Head Start programs across the country and to design and implement the new Early Head Start program which focuses on the healthy development of infants and toddlers. We created the new and streamlined Child Care Bureau with its capacity to reach out to states, child care providers and parents with badly needed expertise and information. We refocused our national child welfare system on results—on children's safety, permanence and health development—by reshaping federal monitoring and technical assistance, and we laid the groundwork for our commitment to double adoptions from the public child welfare system by the year 2002.

ACF's goals—family economic independence, the healthy development of children, and providing high-quality, integrated services to needy families and special populations—are ones to which I am deeply committed and to which I hope to make a contribution. If confirmed in this position, I would bring a breadth and depth of knowledge and experience, a clear focus on results, demonstrated skill as a leader and a manager, a track record of partnership with states and communities, and a commitment to openness in policy decisions and implementation.

Mr. Chairman, if confirmed, I will continue to work on a bipartisan basis with you, the Members of this Committee, and the Congress, to achieve our mutual goals

and make a difference for children and families in America. Thank you. I am pleased to answer any questions that you might have.

The White House,

APR 16 1997

19

To the

Senate of the United States.

I nominate

Olivia A. Golden, of the District of Columbia, to be Assistant Secretary for Family Support, Department of Health and Human Services, vice Mary Jo Bane, resigned.

William S. Clinton

DRAFT

DRAFT

THE WHITE HOUSE
Office of the Press Secretary

For Immediate Release

April 14, 1997

**PRESIDENT NAMES OLIVIA A. GOLDEN AS ASSISTANT SECRETARY FOR
CHILDREN AND FAMILIES AT THE DEPARTMENT OF
HEALTH AND HUMAN SERVICES**

The President today announced his intent to nominate Olivia A. Golden to serve as Assistant Secretary for Children and Families at the Department of Health and Human Services.

Olivia A. Golden, of Washington, D.C. and Cambridge, Massachusetts, has served in several positions at the Department of Health and Human Services since November 1993. She has served as Acting Assistant Secretary for Children and Families, and currently serves as Principal Deputy Assistant Secretary for Children and Families. Prior to her service as Principal Deputy Assistant Secretary, Dr. Golden was Commissioner on Children, Youth, and Families in the Administration for Children and Families, where she was responsible for oversight of social programs such as Head Start, the Children's Bureau, the Family and Youth Services Bureau, the National Center on Child Abuse and Neglect, and the Child Care Bureau.

Before coming to the Department of Health and Human Services, Dr. Golden was director of programs and policy for the Children's Defense Fund in Washington, D.C., where she was responsible for policy development, advocacy, and research regarding health, income, child care, child welfare, adolescent pregnancy prevention, youth development, and integrated services to children and families. From 1987-1991, Dr. Golden was a lecturer in public policy at Harvard University's Kennedy School of Government, focusing on child and family policy, employment and training, and public management. She has also held several positions in state government, including Budget Director for the Executive Office of Human Services in the Commonwealth of Massachusetts. Dr. Golden earned a B.A. degree from Harvard University, and a M.A. degree and Ph.D. in Public Policy from the Kennedy School of Government at Harvard University.

The mission of the Administration for Children and Families is to ensure the economic self-sufficiency of families and the healthy development of children and youth. Key programs include Head Start, Temporary Assistance to Needy Families (TANF), child support enforcement, child abuse and neglect, family preservation and family support services, and Low Income Home Energy Assistance Program (LIHEAP), the JOBS program, and the Social Services Block Grant (SSBG).

-more-

Senate Finance Committee
Statement of Information Requested of Nominee

A. Biographical Information.

1. Name: Olivia Ann Golden
2. Position to which nominated: Assistant Secretary for Family Support.
3. Date of nomination: April 15, 1997
4. Home Address:
2601 Woodley Place, NW #103
Washington, DC 20008

Office Address:
Principal Deputy Assistant Secretary
Administration for Children and Families
Suite 600
370 L'Enfant Promenade, SW
Washington, DC 20447

5. Date and place of birth: 5/23/55, New York, New York.
6. Marital status: single.
7. Names and ages of children: none.
8. Education:

Oxford High School for Girls, Oxford, England, 1968-69.

Amherst Regional High School, Amherst, MA, 1969-72; high school diploma, June 1972.

Harvard University, Cambridge, MA, 1972-76; BA, magna cum laude, June 1976.

John F. Kennedy School of Government, Harvard University, 1979-81; Master's in Public Policy, June 1981.

Harvard University, 1981-83; PhD in Public Policy, June 1983.

9. Employment record:

1976-78. Budget and Management Analyst, Massachusetts Department of Public Welfare, Boston, MA.

1978-79. Director, Monthly Income Reporting Pilot Project, Massachusetts Department of Public Welfare, Boston, MA.

- 1979-80. Part-time consultant, Massachusetts Department of Public Welfare, Boston, MA.
- 1980. Summer and part-time consultant on budgeting, Boston Housing Authority, Boston, MA.
- 1980-83. Teaching Fellow and Teaching Assistant, Kennedy School of Government, Harvard University, Cambridge, MA.
- 1983-85. Budget Director, Executive Office of Human Services, Commonwealth of Massachusetts, Boston, MA.
- 1985-87. Adjunct Lecturer in Public Policy, Kennedy School of Government, Harvard University, Cambridge, MA.
- 1986. Candidate, Massachusetts State Senate, Cambridge, MA.
- 1987-91. Lecturer in Public Policy, Kennedy School of Government, Harvard University, Cambridge, MA.
- 1991-93. Director of Programs and Policy, Children's Defense Fund, Washington, D.C.
- 1993-96. Commissioner, Administration on Children, Youth, and Families, DHHS, Washington, D.C.
- 1996-97. Acting Assistant Secretary, Administration for Children and Families, DHHS, Washington, D.C.
- 1997. Principal Deputy Assistant Secretary, Administration for Children and Families, DHHS, Washington, D.C.

10. Government experience (other than that listed above):

- 1986. Member, North Cambridge Stabilization Committee.
- 1987-88. Chair, North Cambridge Stabilization Committee.
- 1989-91. Member, Mental Health Area Board, Cambridge-Somerville Area.
- 1989. Member, Cambridge Advisory Committee on Children and Youth.
- 1990-91. Chair, Cambridge Advisory Committee on Children and Youth.
- 1987-91. Occasional consulting or training activities while I was on the faculty of the Kennedy School of Government. For example, participated in training for Mass. state employees conducted by the Kennedy School of Government (1988); conducted a session at a training conference for Midwestern women

state legislators held at the University of Missouri (1990).

11. Business relationships: None.
12. Memberships: No offices held. Memberships include Sierra Club, Appalachian Mountain Club, Potomac Appalachian Trail Club, D.C. Road Runners Club, REI, Amnesty International, CARE, Oxfam, International Rescue Committee, ACLU, Civil Liberties Union of the National Capitol Area, NARAL, Planned Parenthood, APPAM, ASPA (honorary and only for one year), American Automobile Association.

13. Political affiliations and activities:

- a. List all public offices for which you have been a candidate.

I was a candidate for the Massachusetts State Senate in 1986.

- b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

1984-89. Elected member, Cambridge (MA) Democratic City Committee.

1986-89. Elected delegate, Massachusetts State Democratic Convention (Alternate 1984).

1987-89. Member, Finance Committee, Alice Wolf City Council Campaign (Cambridge, MA).

While I lived in Massachusetts (through May of 1991), I did a variety of minor volunteer work (stuffing envelopes, etc.) for Democratic candidates for statewide office and U.S. Senate, for the Michael Dukakis Presidential campaign, and for a number of local (nonpartisan) races in Cambridge and Boston.

- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

Note: This represents the most complete reconstruction of campaign contributions that I can make from my records.

1987.

[Records not available for first part of 1987.]

| | | |
|------|-----------------------|-------|
| 6/25 | Larkin Committee | \$ 50 |
| 8/02 | Alice Wolf Campaign | 100 |
| 8/04 | Dukakis for President | 500 |

1988.

| | | |
|------|---|-------|
| 1/31 | Dukakis for President | \$200 |
| 3/24 | Committee to Elect Jonathan Myers (City Council) | 50 |
| 6/10 | Tom Birmingham for State Senate | 50 |

1989.

| | | |
|-------|---------------------------------------|-----|
| 5/29 | Committee to Elect Jonathan Myers | 50 |
| 6/09 | Alice Wolf Election Committee | 100 |
| 6/16 | The Larkin Committee | 50 |
| 6/16 | Tom Birmingham for State Senate | 50 |
| 6/21 | Rosengren for Assembly | 100 |
| 7/29 | Committee to Elect Rosaria Salerno | 50 |
| 7/30 | Committee to Elect Evelyn Murphy | 50 |
| 9/24 | Alice Wolf Election Committee | 50 |
| 10/14 | Committee to Re-Elect Rosaria Salerno | 100 |
| 10/25 | Paul Leif Rosengren for Assembly | 50 |
| 10/25 | Committee to Elect Rena Leib | 50 |

1990.

| | | |
|-------|------------------------------------|-----|
| 2/19 | The Evelyn Murphy Committee | 50 |
| 2/19 | Committee to Elect Marc D. Draisen | 50 |
| 6/6 | Dick Kraus for Treasurer | 50 |
| 7/30 | The Evelyn Murphy Committee | 100 |
| 8/20 | Campaign for Massachusetts' Future | 100 |
| 8/20 | The Evelyn Murphy Committee | 100 |
| 10/07 | Campaign for Massachusetts' Future | 250 |
| 10/07 | Kerry for Senate in "90" | 100 |
| 10/07 | Campaign to Elect Marc D. Draisen | 50 |
| 12/23 | Committee to Elect Rosaria Salerno | 50 |

1991.

| | | |
|------|------------------------------|-----|
| 1/07 | The Kraus Committee | 50 |
| 5/30 | Citizens for John Olver | 100 |
| 7/21 | Alice Wolf Election Campaign | 100 |

1992.

| | | |
|-------|------------------------------|-----|
| 7/19 | Clinton for President | 250 |
| 10/25 | Clinton/Gore Compliance Fund | 250 |

1993.

None.

1994.

None.

1995.

| | | |
|-------|------------------------------------|------|
| 11/18 | Clinton/Gore '96 Primary Committee | 1000 |
|-------|------------------------------------|------|

1996.

| | | |
|-------|------------------------------------|-----|
| 2/11 | The Kerry Committee | 150 |
| 5/12 | Emily's List | 100 |
| 5/12 | The Kerry Committee | 100 |
| 6/09 | Alice Wolf Election Committee | 100 |
| 7/07 | Committee to Elect Philip Johnston | 125 |
| 8/04 | Freedman for Congress | 100 |
| 8/04 | McCarthy for Congress | 100 |
| 8/04 | Carson for Congress | 100 |
| 9/07 | McBurney for Congress | 100 |
| 9/07 | Sabenow for Congress | 100 |
| 9/07 | Hooley for Congress | 100 |
| 10/13 | DCCC | 100 |
| 10/13 | Tauscher for Congress | 100 |
| 10/13 | Stabenow for Congress | 100 |
| 10/13 | The Kerry Committee | 50 |
| 12/01 | Phil Johnston for Congress | 50 |

14. Honors and Awards:

While I was Commissioner of the Administration for Children, Youth, and Families, we were selected as a semi-finalist for the Ford Foundation's 1995 Innovations in American Government Awards Program, for our work on the consultation and policy design of the Family Preservation and Support Services program.

Manuel Carballo award for the Kennedy School's outstanding teacher, June 1991.

Honorary membership in the American Society of Public Administration, 1992.

Phi Beta Kappa (junior year) 1975.

Lucy Paton Award for the Outstanding Radcliffe junior in the humanities, 1975.

Best graduate or undergraduate essay in political philosophy, Harvard University (awarded for senior thesis), 1976.

Presidential Scholar, Massachusetts, 1972.

National Merit Scholar, Massachusetts, 1972.

15. Published writings:

Books.

Golden, Olivia. Poor Children and Welfare Reform. Greenwich, CT: Greenwood Publishing Group, Auburn House Press, 1992.

Papers and Articles.

Golden, Olivia, "Comments on 'What Could \$10 Billion or \$40 Billion Do For Children?'" Security for America's Children: Proceedings of the Fourth Conference of the National Academy of Social Insurance, Paul N. Wandsater and Lisbeth Schorr, editors. Dubuque, Iowa: Kendall-Hunt Publishing Company, 1992.

Golden, Olivia, "Collaboration as a Means not an End: Serving Disadvantaged Families and Children," Effective Services for Young Children: Report of a Workshop. Lisbeth B. Schorr, Deborah Both, and Carol Copple, editors. Washington, D.C.: National Academy Press, 1991.

Golden, Olivia, Poor Children and Welfare Reform: Executive Summary. New York: Foundation for Child Development, Fall 1991.

Golden, Olivia, "Innovations in Public Sector Human Service Programs: The Implications of Innovation by 'Groping Along'," Journal of Policy Analysis and Management, April 1990.

Golden, Olivia, "Innovations in Public Sector Human Services Programs: The Implications of Innovation by 'Groping Along'." In Alan A. Altshuler and Robert D. Behn, Innovations in American Government: Opportunities, Challenges, and Dilemmas. Washington, D.C.: The Brookings Institution, forthcoming, 1997. (Note: This is an abridgement of the article above.)

Golden, Olivia, "Balancing Entrepreneurship, Line Worker Discretion, and Political Accountability: The Delicate Task of Innovators in Human Services." Paper presented to the 1988 Annual Meeting of the Association for Public Policy Analysis and Management, October 1988.

Jenkins, Steve, Dorsey, Cheryl, and Golden, Olivia, "Characteristics of Service Deliverers: Who Delivers Services to Poor Children?" Prepared for the Executive Session, Making the System Work for Poor Children, September 1988.

Dorsey, Cheryl and Golden, Olivia. "Inventory of Services to Poor Children." Prepared for the Executive Session, Making the System Work for Poor Children, September 1988.

16. Speeches:

I have made numerous speeches during the past five years to a variety of audiences, including Head Start, child care, child welfare, and youth conferences; local, state, and national technical assistance conferences on a variety of children's and welfare-related issues; and academic and foundation meetings. In general, I speak from notes rather than a prepared text and am therefore unable to provide a complete set of copies. Attached are several examples of speeches where I had a copy typed up afterwards from my notes.

17. Qualifications:

My career has combined scholarship, teaching, public management at the state and Federal levels, and community leadership in the fields of child and family policy, employment and training policy, and welfare policy. I have a deep commitment to improving the circumstances of America's children and families and a considerable base of knowledge and experience to bring to that task.

Most recently, from 1993 to late 1996, I served as the Commissioner of the Administration for Children, Youth, and Families at the U.S. Department of Health and Human Services. Among other accomplishments of those years, I am proud of our work, in partnership with states, grantees, the Congress, and many others in the Administration, to ensure quality in Head

Start programs across the country; to design and implement the new Early Head Start program, with its focus on the healthy development of infants and toddlers; to create the new and streamlined Child Care Bureau with its capacity to reach out to states, child care providers, and parents with badly needed expertise and information; to refocus our national child welfare system on results -- on children's safety, permanence, and wellbeing -- by reshaping Federal monitoring and technical assistance; and to lay the groundwork for our commitment to double adoptions from the public child welfare system by the year 2002.

Among the most important qualifications that I believe I would bring to the position of Assistant Secretary for Family Support are breadth and depth of knowledge and experience, a clear focus on results, demonstrated skill as a leader and a manager, a track record of partnership with states and communities, and a commitment to openness in policy decisions and implementation.

B. Future Employment Relationships.

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate?

I severed all connections with prior employers upon confirmation in my previous position at the U.S. Department of Health and Human Services, as Commissioner of the Administration for Children, Youth, and Families.

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government?

No.

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service?

No.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable?

Yes.

C. Potential Conflicts of Interest.

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

I know of none.

2. Describe any business relationship, dealing, or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

None.

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy.

As Director of Programs and Policy at the Children's Defense Fund (1991-93), I advocated on behalf of policy positions through a variety of means: publications, public education, technical assistance and training, speaking opportunities, and the provision of advice to policy-makers and legislators. I engaged in very little direct lobbying but assisted in framing CDF's positions on Head Start, immunization, services to vulnerable families, and other major child and family policy issues.

As a faculty member at the Kennedy School of Government, I wrote on topics of human services implementation with the hope of affecting the administration of human services programs and contributing to their greater effectiveness. My work focused on eliminating barriers to innovation, service quality, and service integration. During this time, I also conducted occasional training and consulting activities with public sector audiences, and I served on and chaired an Advisory Committee to the Mayor of Cambridge regarding the city's policy on children and families.

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items.

I will seek and follow the advice of the General Counsel in resolving any conflict of interest that might arise.

D. Legal and Other Matters.

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group?

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county, or municipal law, regulation, or ordinance other than a minor traffic offense?

No.

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation?

No.

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense?

No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None.

E. Testifying Before Congress.

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes.

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes.

Response to Questions Submitted
by Olivia Golden, Assistant Secretary
for Family Support-Nominee

Questions for the Record - Senator Rockefeller

Question 1

I am very interested in the report by HHS on changing the incentive formula for child support enforcement to promote key outcomes like paternity establishment, establishing child support awards, and collecting child support payments.

I know that Senators Grassley and Graham are also interested in this issue, and it is always good when we can work on child support enforcement improvements in a bipartisan manner as we have in the past.

As we look at the issue of incentives, I support the tremendous effort on this report, but I want to raise two additional issues:

How can we do more to track medical support to ensure that non-custodial parents are providing health care coverage?

Answer

Medical support is a critical component of providing support to children. The Federal/State Incentives workgroup decided it was not appropriate at this time to attach incentive funding to a medical support measure of State performance because of complex requirements for enforcing medical support when the employer is self-insured. However, changes to the Employees Retirement Income Security Act (ERISA) in the Balanced Budget Act of 1996 should eliminate many obstacles to securing health insurance for children. Therefore, we will begin work on an incentive measure. In the interim, the Office of Child Support Enforcement (OCSE) will collect medical support enforcement data and will track State performance.

Response to Questions Submitted
by Olivia Golden, Assistant Secretary
for Family Support-Nominee

Question 2

If we shift millions of dollars of federal incentive payments to outcome measures, how can we be sure that the information and data used for distributing funding is accurate and reliable?

Answer

This issue is very important to us. We are addressing it through training and technical assistance, and we are also prepared to take a tough enforcement and auditing approach. OCSE auditors and State self-assessments will provide important checks on data reliability. Under changes made by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA), a penalty may be assessed against a State for unreliable data. In addition, OCSE will withhold incentive funds if it determines that data is unreliable or unavailable for a particular State.

OCSE is revising data reporting requirements in anticipation of the new incentive measures. State staff will receive training in the new reporting requirements.

Question 3

Is it true that the audit penalties come from the welfare reform block grant, and not the child support enforcement system?

Answer

Yes, according to section 409(a)(8) of the Social Security Act, penalties based on a State's performance in child support enforcement will be taken out of amounts otherwise payable to a State under the IV-A program.

**Response to Questions Submitted
by Olivia Golden, Assistant Secretary
for Family Support-Nominee**

Question 4

Isn't it true that in some States, child support enforcement is in a different State agency than welfare -- wouldn't it be better to develop a reasonable penalty system for child support enforcement rather than taking money from welfare systems for problems in child support?

Answer

Historically, audit penalties taken against the IV-A program have been effective in getting States to take corrective actions to improve their child support programs. In most States the child support and welfare programs are in the same cabinet agency.

Response to Questions Submitted
by Olivia Golden, Assistant Secretary
for Family Support-Nominee

Questions for the Record - Senator Graham

Question 1

Senator Grassley and I currently have a bill drafted which would restructure the child support enforcement incentives payment structure in accordance with recommendations made by a federal/state working group as mandated by last year's welfare reform bill. The legislation would create performance measures by which State child support programs would be assessed and incentive payments awarded. The five measures recommended are: establishment of paternity; establishment of child support orders; collections on current child support due; collection on past child support due; and cost effectiveness. Our bill, for practical purposes, deviates from the Working Group's recommendations with respect to the manner in which and the length of time provided for the program to be phased in.

The goal is to provide States with the appropriate tools and incentives to establish and enforce child support orders. We want to ensure that parents will fulfill their obligations of providing their children with the support ordered by the courts.

I was pleased to hear that the working group's recommendations have been generally well-received by States, directors of child support programs, and child welfare advocates. That is why I, along with Senator Grassley, have drafted legislation which would codify the essential elements of the working group's recommendations. I know that your staff has had an opportunity to review the bill. It is my understanding that you cannot take an official position until the Office of Management and Budget has had the opportunity to review it.

What is the Administration's position on the recommendations made by the working group regarding the child support enforcement incentive payment structure, and how important is it to keep the major elements of the working group's recommendations intact?

Response to Questions Submitted
by Olivia Golden, Assistant Secretary
for Family Support-Nominee

Answer

The Administration fully supports the workgroup's incentive recommendations, as stated in the Secretary's Report to Congress on Incentives. The major elements of the incentive funding formula -- performance measures, standards of performance, the collection base or source of incentive funds, and reinvestment of incentive funds -- were carefully considered by State and Federal officials and are critical to retain. Significant changes could adversely affect the level of State support for the new incentive formula. The report's recommendation of a two-year phase in for the formula was a compromise among States that wanted no phase in and some that preferred a multi-year phase in. The Administration is willing to work with the Congress to address the concerns of States in making the transition from the current incentive system to the proposed performance-based formula.

Question 2

Based on what you and your staff have already seen, what comments do you have regarding the legislation drafted by Senator Grassley and I that seeks to codify the Working Group's recommendations?

Answer

Federal staff have been providing technical assistance to the staffs of Senators Grassley and Graham on legislation to implement recommendations in the Secretary's Report to Congress on Incentives. The draft bill is very close to the original State/Federal work group's recommendations. The Graham/Grassley proposal is also similar to H.R. 2847, the Child Support Incentives Act, which was passed by the U.S. House of Representatives on September 29, 1997. H.R. 2847 was introduced by House Ways and Means Subcommittee on Human Resources Chairman, E. Clay Shaw, Jr. and Representative Sander Levin. The major difference among the three proposals is the method and length of phase-in. We are eager to work with the Senate and the House toward enactment of legislation that is mutually agreeable.

Response to Questions Submitted
by Olivia Golden, Assistant Secretary
for Family Support-Nominee

Question 3

Overall, understanding that some changes concerning the phase-in may be enacted, will legislation such as ours, which incorporates the working group's major recommendations, have a positive impact on the federal/state partnership in child support enforcement?

Answer

Absolutely. The proposed legislation will have a positive impact on the Federal/State partnership in the child support program. The legislation will make a much needed change in the financial structure to reward States based on the real outcomes of the program. In addition, the process for development of the new incentive system will serve as a model of how federal and State partners can work together to bring about better results for children who are owed support.

Question 4

What is the status of federal regulations related to TANF block grant to States? In particular, what is the status of regulations regarding participation and the use of funding in distinguishing activities that carry time limits and activities that do not?

Answer

We anticipate publishing a notice of proposed rulemaking very soon. We have revised our original draft to reflect recent statutory changes contained in the Balanced Budget Act of 1997. In addition, on January 31, 1997, we sent a policy announcement to States, which addressed the definition of assistance and other issues of interest to the States. This guidance should be helpful on the issue of what is subject to the time limit.

**Response to Questions Submitted
by Olivia Golden, Assistant Secretary
for Family Support-Nominee**

Question 5

Of particular concern to the State of Florida is the potential of being subject to penalties retroactively once the regulation process is completed. As Assistant Secretary for Children and Families, do you intend to impose penalties in regard to participation rates during the July-September, 1997 quarter?

Answer

We will examine each State's situation individually on this question. Any action we take with respect to penalties during that period will be based solely on the language of the statute. However, the statute does not give us the latitude to ignore any penalties States may incur before final regulations have been published.

It is important to remember that loss of funding is not necessarily the outcome if we find that a State is not in compliance with the law. Under the statute, a State may submit a corrective action plan to solve the problem and States may seek relief for "reasonable cause." At all times, my goals are to assure that States comply with PRWORA and to operate a fair process for assessing State compliance.

Response to Questions Submitted
by Olivia Golden, Assistant Secretary
for Family Support-Nominee

Question 6

Recent scientific research highlights the importance of a child's early learning and development in creating a bright future. With this in mind, the President has indicated that he intends to make child care a priority issue for the Administration. Later this year, the White House will be holding a conference on child care drawing together experts and leaders from throughout the country. What do you foresee as possibilities for improving the national effort to ensure safe, dependable, and affordable child care for the children of working parents?

Answer

Each day millions of children are being cared for in out-of-home child care settings. As the importance of child care has gained national recognition, there has been increased effort in the public and private sectors, both individually and in partnership, to improve both the quality and availability of child care services. These efforts must be sustained and expanded.

Among the most critical factors contributing to children's early learning and development is providing child care settings that are healthy and safe. Young children in child care require special health considerations such as immunizations, injury prevention, and safe and developmentally appropriate environments. Linkages between child care and health will maximize resources and ensure coordinated services that promote the healthy development of children.

For example, in 1995, HHS launched the Healthy Child Care America Campaign, a collaborative, grass roots effort of health care and child care providers to improve the health and safety of children and families. Using the Blueprint for Action, communities all over the country are making linkages between health programs and child care. Campaign activities enhance the quality and availability of safe and healthy child care for all children, especially children from low-income families.

**Response to Questions Submitted
by Olivia Golden, Assistant Secretary
for Family Support-Nominee**

Question 7

Do you foresee a role for the business community in further facilitating the provision of safe and reliable child care?

Answer

Yes. Private sector support not only improves child care, through increased resources and private involvement, but also benefits the business community. By supporting child care, the private sector can improve the business infrastructure and climate--making it easier to attract and retain employees, reduce absenteeism, and increase productivity. Support for child care can also raise a company's profile and improve public relations. Business involvement can be developed as a partnership with the public sector. In cooperation, business, government, child care resource and referral, and community agencies bring together the skills, expertise, and information needed to identify service gaps, avoid unnecessary duplication, and develop new solutions to meet the child care needs of working families.

The private sector can support child care in a number of ways, including:

- **Leadership and planning.** For example, businesses can help examine child care needs and develop recommendations for improvement.
- **Providing Business Advice.** Businesses can provide business advice to child care providers about the tax code and management practices.
- **Funding.** Businesses can invest resources and provide loans that improve the supply or quality of services for the total community or provide targeted scholarships to help families pay for care.

In the near future, the Administration for Children and Families (ACF) will announce a contract to provide technical assistance to Child Care and Development Fund grantees regarding ways to increase private sector support for child care. Technical assistance under this contract will provide: federal leadership; linkages between existing public-private partnerships; facilitation of the sharing of lessons learned from existing and emerging partnerships; guidance for improving existing partnerships; and impetus for establishing new partnerships.

**Response to Questions Submitted
by Olivia Golden, Assistant Secretary
for Family Support-Nominee**

Question 8

In your view, how can we reconcile the need to provide affordable child care with the need to ensure that strong early learning and development needs are met in a manner that does not cut costs at the expense of children?

Answer

Clearly, both child care affordability and access to strong early learning and development experiences are critically important. They also are not mutually exclusive. Given the growing demand for high quality, affordable child care, ACF is committed to finding ways to use our resources to balance affordability with quality improvements.

At the federal level, one of our major roles involves sharing information about effective methods of promoting early learning and development. For example, we have established a National Child Care Information Center, a clearinghouse for child care information. The purpose of the Center is to enhance and promote child care linkages and to serve as a mechanism for supporting quality, comprehensive services for children and families. In addition, through the Child Care Technical Assistance Project, ACF provides important technical assistance to improve and expand the child care delivery systems for low-income families in States, tribes and territories.

PREPARED STATEMENT OF HON. ORRIN G. HATCH

Mr. Chairman, I join in the welcome of Ms. Hayes by this committee.

In my judgment, the President has chosen wisely. Ms. Hayes has proven her mettle admirably. We should not forget that, at the time she walked into this year's textile negotiations with China, the U.S. charges against China were substantial. They included repeated violations of the bilateral trade agreement with the U.S.; denial of market access to our products; widespread import fraud; counterfeiting of our copyrighted textile designs and trademarks; and the illegal annual transshipment by China of \$2-4 billion of textiles and apparel to the U.S. These were not issues that would be easily resolved.

If I had to point to one generic accomplishment in her negotiations with the Chinese, I would cite her clear message that continued bad behavior risked serious damage to, if not the destruction of, their U.S. textile and apparel market in the U.S. This would occur because the U.S. consumer would amply benefit from textile and import quotas that invite low-cost suppliers from many other sources besides China.

I was not unhappy with the outcome: market access to China has been liberalized; Customs compliance and enforcement increased; and China's quota reduced.

As good as this performance was, she has also invited controversy. This is because of alleged contacts with Clinton Presidential Campaign contributors. One donor, in particular, was an American business partner of a Chinese exporter. I have examined the available evidence on this matter, based on the materials collected by my staff through interviews and from other sources. At the moment, I find nothing in the evidence to deny Ms. Hayes my endorsement of her nomination.

Thank you, Mr. Chairman.

 PREPARED STATEMENT OF RITA D. HAYES

Thank you, Mr. Chairman, Members of the Committee. It is an honor to be here as a nominee, and I appreciate this opportunity to discuss our trade policy and interests in the World Trade Organization.

We are almost three years into the implementation of the WTO -- an historic bargain between the United States and more than 120 nations. In that bargain, each member nation agreed that free trade could only be sustained and expanded if it is fair and that fairness would require a concerted effort to deepen, strengthen, and enforce the rules of global commerce.

The responsibility of this Administration and this Congress, put simply, is to ensure that America gets the benefit of that bargain. The long term implications are clear: one pillar of our nation's economy will always be its ability to compete and trade in the world economy. But immediate interests are also at stake: more than 11 million Americans work in jobs supported by exports.

The best way for the United States to advance our interests -- to get fair trade on a level playing field -- is to speak with a strong voice in the WTO and continue being the leading force for a rule-based system of trade that fosters openness and fair competition.

If you will allow me, I would like to give you just a brief overview of where we stand in the development of the WTO and the goals we are pursuing.

Foremost, we are concerned with completing what we have started: that is, getting our trading partners to fully *implement* the hundreds of trade commitments covered under the Uruguay Round. The United States has been energetic in meeting its WTO obligations, and the general trend among member nations has been a good faith response.

But many times our inquiries of other nations have been answered with obfuscation, foot-dragging, reinterpretations, disguised obstacles, or plain silence. That is unacceptable. We expect all countries to meet their commitments, by the letter of their agreements and in their spirit. Until they do, we are going to stay on the case.

Once a country's laws and rules of the road are in place, we expect them to be enforced. As the WTO has developed, *enforcement* has increasingly demanded more attention and resources in our trade policy. From 1995 to 1996, the Administration more than doubled the number of its trade enforcement complaints at the WTO, rising from 6 complaints to 15. In the first half of this year, the administration has already brought an additional 10 complaints.

We believe an aggressive approach to enforcement produces results that will echo far beyond any single case. Those results demonstrate to all nations that the WTO can be a fair and effective means of dispute settlement. They set specific precedents to guide future policy decisions and reform programs. They add strength, impartiality, and authority to sanctions, when sanctions are necessary.

And most important, they shape perceptions and influence how other nations take our word. They tell other nations that the United States will not allow a binding pledge of trade commitments to be treated as a dead letter. An agreement is worth nothing if a nation is not willing to enforce it.

On behalf of American workers, farmers, and industry we are going to continue vigorously protecting our interests in trade agreements. This vigilance will secure American jobs in trade-dependent industries. And over the long run, it will reaffirm and improve the integrity of the worldwide trade system.

Another key goal the United States has is the development of a way to sustain the momentum for continuous -- rather than round-by-round -- *trade expansion and liberalization*. The world economy moves too fast and the stakes are too high for nations to continually postpone market openings in the hope of a future Round.

Our goal is to build on the regional and multilateral trade agreements that have already been reached. In addition, we want to continue using the leadership of the United States to expand the coverage of existing trade agreements to address practices that undermine the benefits achieved through stronger trade rules and market access commitments: trade distortions created by low labor standards; excessive regulation; lack of transparency; bribery and corruption; barriers to environmentally sustainable development; and anti-competitive behavior.

Earlier this year, Ambassador Barshefsky completed the far-reaching Information Technology Agreement. This agreement virtually eliminates tariffs across a \$500 billion industry and gives our companies more opportunity to compete in this dynamic sector. It also stands as an example of what strong American leadership can do to open markets on a regular basis.

I would like to note just in passing that the President's current initiative for additional trade expansion -- the renewal of *fast track authority* -- will be considered by the Congress in the coming weeks. With that authority, we can continue the legacy of forceful American leadership in the world economy, and American workers, farmers, and industry win. In its absence, we will have less power to chart the best course for our trade interests. We encourage the Congress to give it favorable consideration.

The principal goals I have outlined -- implementation, enforcement, and expansion -- are crucial to the integrity of the complex WTO trading system. In this light, the argument for a very careful and methodical process of *accession* to the WTO becomes much more compelling. New members must be full members, accepting obligations as well as opportunities.

Some 29 nations have now started accession proceedings. We must ensure that new entrants reinforce the WTO rules and provide market access on commercially meaningful terms. To do less would only undermine the support the American people have given our trade policy, and it would show disrespect for the WTO among our trading partners. We have invested too much over the history of this trading system to let its future be shortchanged now.

The future of the WTO holds great promise for the United States. In addition to the financial services negotiations now underway, the next four years will see *major trade negotiations* in agriculture, services, and the rules for intellectual property rights. In each of these industries, US industries are ranked as the top global competitors, and they hold these positions at an especially opportune time. Developing nations are integrating with the global economy and investing in their infrastructure at an unprecedented pace, and the very products and services these nations need most for their growth are the ones that America does best. It's a natural fit. But the intersection of our supply and their demand will not be automatic. There is going to be a direct link between America's leadership on trade and our ability to prosper.

The list does not stop with those few sectors. There are literally hundreds of products and issues in which the United States has a significant interest under the WTO. Rather than try to catalogue them all here, I would like to touch on just a few of them and reserve the balance for your questions later:

- As you know Mr. Chairman, the negotiations for *financial services* are well underway. The US offer, which was tabled on July 14, has been well-received. Along with the Treasury Department, we have been working very hard to encourage the key nations, especially in the Asia-Pacific and Latin American regions, to improve their offers. To successfully conclude these negotiations this year, our trading partners must significantly improve their commitments based on the GATS principles of market access, national treatment, and MFN. Given the precedent set by the telecommunications agreement, we hope to see improved offers and reach a meaningful and comprehensive agreement by the end of the year.
- Negotiations to further open the \$526 billion global *agriculture market* are to be initiated in 1999. While the Uruguay Round reduced some of the most difficult barriers to agricultural trade, helping us to attain a record level of agricultural exports in 1996, our work is far from done. Removing agricultural barriers wherever they exist is one of our highest priorities of the next four years, so follow-on negotiations in the WTO are extremely important. We will work hard with our allies on this issue to move ahead.
- *Services negotiations* to expand this \$1.2 trillion global market -- where U.S. firms exported more than \$220 billion in 1996 with a surplus of \$74 billion -- are to start in January 2000. In particular, the TRIPs agreement which protects the interests of fast-growing U.S. copyright industries exporting over \$400 billion a year, is to be reviewed, with key elements examined before then. We must do everything possible to expand opportunities for such vibrant industries.

The "built-in agenda" from the Uruguay Round provides other opportunities to open foreign markets. As traditional tariff barriers become less of a problem, the built-in agenda is in many respects aimed at clearing away the impediments left by *nontariff barriers* -- be they deliberate or the unintended consequence of bureaucracy and inefficiency.

- For example, the rules governing *technical barriers to trade* -- covering product standards, technical regulations and associated procedures such as testing and certification -- are scheduled to be reviewed by this December; sanitary and phytosanitary rules affecting trade in agricultural goods will be reviewed by this coming January. These reviews will play an important role in our broader efforts to ensure that the development and application of product standards and environmental, health, and safety regulations are adequately justified and do not serve as disguised restrictions on international trade.

- Similarly, bringing about the full implementation of the *customs valuation* agreement by 2000, particularly by WTO members in key emerging markets, will help to ensure that our exports to those markets are not impeded by improper or incorrect customs valuation methods that might distort the price of our products and erode the benefits of Uruguay Round market access gains.
- Negotiations for harmonizing the *rules of origin* are also due to be completed by July 1998. A harmonization agreement will significantly enhance commercial predictability and reduce the ability of governments to manipulate these rules as a means of "reclassifying" products under a higher tariff. For U.S. industries that source their parts and components from around the world for production in various countries, these rules are critical to their operations and cost predictions.
- The work this year to improve and expand the coverage of WTO rules on *government procurement* can facilitate U.S. efforts to improve our access to the lucrative infrastructure projects now planned or under way in the rapidly growing regions of the world. For example, we estimate that Asia alone will provide opportunities for up to \$1 trillion in business for such projects over the next decade.
- The U.S. will push for broader and clearer reporting of *state trading activities* which will lead to a better understanding of the relationships between state trading enterprises and governments and of the types of activities in which STEs engage. Due to our concerns about the state trading activities of other countries, especially in agricultural products, there is heightened scrutiny of STEs in the WTO.

Whether by addressing longstanding and systemic issues such as these or by cultivating sectoral liberalization outside the WTO, as we are doing in APEC, the bottom line will be the same. We are going to be working to create and protect American jobs, and we are going to work to build the institutions and rules that open markets and bring stability to world trade.

Mr. Chairman, I have been very fortunate to be a part of this Administration's effort, and I look forward to working with the members of this Committee and this Congress as we go forward. That concludes my prepared remarks. I will be glad to take questions if the committee so chooses.

The White House,

JUL 23 1997

19

To the

Senate of the United States.

I nominate

Rita D. Hayes, of South Carolina,

to be Deputy United States Trade Representative, with the

rank of Ambassador, vice William Booth Gardner, resigned.

William S. Clinton

DRAFT

DRAFT

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

July 3, 1997

**PRESIDENT CLINTON NAMES RITA D. HAYES AS DEPUTY UNITED STATES
TRADE REPRESENTATIVE GENEVA**

President Clinton today announced his intent to nominate Rita D. Hayes to serve as Deputy United States Trade Representative for Geneva. Ms. Hayes has been serving the Clinton Administration as Chief Textile Negotiator for the United States Trade Representative.

Ms. Hayes of South Carolina currently serves as Chief Textile Negotiator for the United States Trade Representative (USTR). In this capacity, she acts as the principal advisor to the United States Trade Representative on international trade policies and negotiations concerning textile and apparel. Before coming to USTR, Ambassador Hayes served as Deputy Assistant Secretary for Textiles, Apparel and Consumer Goods Industries for the Department of Commerce. Ms. Hayes received a B.A. in Education from the University of Georgia.

The Deputy United States Trade Representative is responsible for conducting trade negotiations and assisting the United States Trade Representative in developing and coordinating the implementation of United States international trade policy. The Deputy United States Trade Representative holds the rank of Ambassador to the World Trade Organization.

-30-30-30-

**Senate Finance Committee
Statement of Information Requested of Nominee**

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)

Rita D. Hayes
Rita Kean Derrick

2. Position to which nominated:

Deputy United States Trade Representative in Geneva

3. Date of nomination:

Date of intent to nominate: July 3, 1997.

4. Address: (List current residence, office, and mailing addresses.)

Current residence
and mailing address: 5311 Massachusetts Avenue
Bethesda, MD 20816

Office Address: Office of the U.S. Trade Representative
600 17th Street, N.W.
Room 300
Washington, D.C. 20508

5. Date and place of birth:

December 17, 1942
Worcester, Massachusetts

6. Marital status: (Include maiden name of wife or husband's name.)

Divorced - John Calvin Hayes

7. Names and ages of children:

| | |
|---------------------|--------|
| John C. Hayes, IV | age 26 |
| Mary Scott Hayes | age 22 |
| Frances Green Hayes | age 21 |

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

Anderson College
September 1961 - June 1963
Liberal Arts Degree
June 1963

University of Georgia
September 1963 - July 1969
B.A.
July 1969

Winthrop College
January 1972 - April 1972
Graduate Course in English
April 1972

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

Snyder Intermediate School
Teacher
Richland County School District No. 1
Columbia, South Carolina
September 1969 - December 1970

Rock Hill School District No. 3
Teacher
Dr. Neeley (Deceased)
Rock Hill, South Carolina
September 1971 - June 1973

York Technical College
 Instructor
 Dr. Baxterhood
 Rock Hill, South Carolina
 September 1979 - June 1981

Office of Congressman John Spratt
 District Administrator
 Rep. John Spratt
 Rock Hill, South Carolina
 January 1983 - January 1987

Office of Congresswoman Elizabeth Patterson
 Chief of Staff
 Congresswoman Patterson
 Washington, D.C.
 January 1987 - January 1993

U.S. Department of Commerce/ITA
 Deputy Assistant Secretary for Textiles & Apparel and Consumer Goods Industries
 Raymond Vickery, Jr.
 Washington, D.C.
 May 1993 - September 1995

Office of the U.S. Trade Representative
 Ambassador & Chief Textile Negotiator
 Charlene Barshefsky
 Washington, D.C.
 September 1995 - Present

10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)

Served as Chair of then-Governor Richard Riley's Nuclear Advisory Committee for the State of South Carolina.

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

None

12. **Memberships:** (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

Member of the Executive Women in Government
 Member of the National Foundation for Women Legislators, Inc.
 Honorary Board Member to YMCA
 Various offices in the Episcopal Church of Our Savior
 President of Junior Welfare League

13. **Political affiliations and activities:**

- A. List all public offices for which you have been a candidate.

None

- B. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

Clinton-Gore Transition Team, 1993

- C. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

No

14. **Honors and Awards:** (List all scholarships, fellowships, honorary degrees, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)

None

15. **Published writings:** (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)

None

16. **Speeches:** (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with two copies of each formal speech.)

Statement before the World Trade Organization Council on Trade and Goods, Concerning Market Access for Textile and Apparel Products, September 19 1996. See attached.

17. **Qualifications:** (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

During my tenure at the Office of the USTR, I have negotiated trade agreements with many countries in Europe, Eastern Europe, Asia, Africa and Latin America. I have also defended the U.S. textile program and U.S. policy interests in several meetings before the World Trade Organization (WTO) Council on Trade and Goods leading up to the WTO Singapore Ministerial and successfully defended the United States before the WTO Textiles Monitoring Body including, presenting evidence in a charge of circumvention of the WTO Agreement on Textiles and Clothing against goods originating in another Member country. In early 1996, I initiated a demand at the Council on Trade and Goods for fair trade through improved market access for U.S. textiles and apparel products as well as tight enforcement of existing agreements. During the first year of the operation of the WTO, I have had to appear at the WTO for negotiations, meetings, and dispute cases in order to secure what the U.S. bargained for in textiles and apparel when signing on to the Uruguay Round agreements. While my focus at the WTO has been the textile sector, I have made many associations with other governments in an effort to support a U.S. industry that has been very volatile and sensitive. In so doing, I have worked out mutually acceptable solutions; and where that was not possible actively defended U.S. policy interests. I believe that these skills enable me to promote U.S. interests and support initiatives for all sectors at the WTO.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

No. I will still be employed at the Office of the United States Trade Representative.

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

No.

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

No.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

None.

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

None.

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

None.

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with two copies of any trust or other agreements.)

None.

5. Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

See attached.

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

No.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No.

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.
No.

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense? If so, provide details.
No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.
None.

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?
Yes.

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?
Yes.

Responses for the Record to Questions from Senator Roth

Question #1

Are you aware of any efforts directly by Steven Lau, or indirectly on behalf of Steven Lau, to influence the outcome of the negotiations with China regarding textile and apparel quotas, which were concluded in January 1997? If so, please describe such efforts.

Answer

No, I am not.

Question #2

At what time did you first become aware that Steven Lau had been the subject of an investigation by the U.S. Customs Service for customs fraud?

Answer

I was informed by the media.

Question #3

Are you aware of any efforts by the White House or any other Administration official, U.S. Government agency, or entity to influence the outcome of the January 1997 negotiations with China regarding textile and apparel quotas to the benefit of Springs Industries?

Answer

No, I am not.

Question #4

Do you attest that all written documents you have submitted in the context of the consideration of your nomination by the Committee on Finance, are true, accurate, and complete?

Answer

All written documents prepared and reviewed by me that I have submitted are true, accurate and complete. This includes my response to articles appearing in The New Republic, The Wall Street Journal, Newsweek and Time magazines, which was submitted by me to the Senate Finance Committee (statement attached).

Question #5

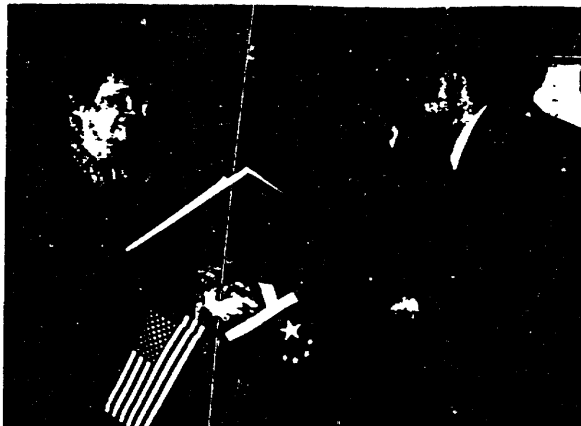
Do you attest that all your responses to the written questions submitted by Senators Roth, Chafee, Grassley, and Nickles on September 10, 1997, are true, accurate and complete?

Answer

Yes.

I declare under penalty of perjury that the foregoing is true and correct. Executed on October 7, 1997.


 Rita D. Hayes



Troubled handshake: The U.S.-Chinese textile deal is complex and very controversial

EXCLUSIVE

Cut From Strange Cloth

A textile deal widens the Clinton campaign saga

BY MARK HOSENBALL

IT WAS A STRANGE PLACE TO HOLD A private briefing. Last winter American and Chinese negotiators sat around a Beijing conference table, haggling over a complex textile deal. One sticking point: import quotas—hypertechnical rules restricting shipments of everything from golf trousers to dress shirts. Thousands of American jobs were on the line. On Jan. 31, chief U.S. textile negotiator Rita Hayes gave American lobbyists a status report. At last the two sides looked as if they were getting close. The Chinese had given in to some of the administration's demands for tough new quotas, she revealed; a final deal wasn't far off. At the end of the meeting, Hayes, concerned a leak could kill the deal, urged her audience to keep quiet.

The lobbyists were puzzled, not by Hayes's request for silence—they'd known for days that the talks were winding down—but by the location she'd chosen to pass on the sensitive news: a conference room inside the Chinese Trade Ministry. That's analogous to, say, U.S. arms-control negotiators holding a strategy meeting in the Kremlin. But what surprised them even more was that a lobbyist from the other side sat in on the meeting. William Houston was

a familiar face to everyone in the room. The chief textile negotiator under Presidents Reagan and Bush, Houston had left the U.S. government to set up shop as a private consultant. Among his clients: Stephen Lau, a wealthy Hong Kong clothing exporter. Lau, who had attended two intimate fund-raising dinners with President Clinton, had millions potentially riding on the treaty's outcome. To the dismay of the American textile lobbyists, Hayes didn't ask her old friend Houston to leave the meeting, even though he had told some of the American textile executives that his client Lau was a trade adviser to the Chinese government.

Hayes insists that she had no authority to kick Houston out and that nobody complained at the time. Houston says he never passed confidential information on to Lau or anyone else. Still, later that same night, the trade talks broke down. The tentative deal Hayes had revealed just hours before was in limbo. After yet another round of talks, a deal was eventually struck. But some of the tough new quotas Hayes had trumpeted just days before were watered down—a blow to American textile companies and American workers, but precisely the outcome Lau and the Chinese government wanted. Hayes nonetheless says the

American textile industry was happy with the final agreement.

Just how did a Hong Kong entrepreneur like Stephen Lau come to have such access to U.S. trade negotiations—and to the president of the United States? Sen. Fred Thompson's committee investigating the campaign-finance mess, which resumes its public hearings this week, may soon be asking the same question. Already the committee has begun an investigation, interviewing Lau's American business partner about how the Hong Kong exporter—who can't legally make campaign contributions—attended two fund-raisers with the president.

Given Lau's history with U.S. law enforcement over the years, the political red flags about him should have gone up immediately. NEWSWEEK has learned that Lau was a target of an intensive seven-year investigation by U.S. Customs, which suspected Lau and his company, Synergy Sport International, of systematically cheating the agency by falsifying import documents. An undercover customs agent posed as a low-level employee, infiltrating Lau's New York office. In court documents obtained by NEWSWEEK, Justice Department prosecutors accused Synergy of making "illicit payments" to Chinese officials to help obtain phony textile visas. The courts threw out part of the case against Lau, but in 1996 he and an American partner agreed to pay a \$3 million penalty to settle the case without admitting guilt. Lau told NEWSWEEK he paid the fine in order to "get the monkeys off my back." A New York company that represented Lau in the United States later pleaded guilty to a felony charge of customs fraud.

Soon after the settlement, Lau embarked on a campaign to polish his image. On Nov. 9, 1996, Tom Nastos, a business partner of Lau's in New York, brought Lau and his wife as his guests to a small fund-raising dinner with Clinton at the Hays-Adams Hotel, across the street from the White House. According to Nastos, Lau had his picture taken shaking hands with the president. That same day, Federal Election Commission records show, an obscure New York company headed by Nastos called T.J. Highlander contributed \$50,000 to the Democratic Party. Nastos admits the contribution was made to pay his and Lau's way into the dinner. Ten months later they were back at the Hays-Adams for another meal. This time Nastos ponied up \$20,000.

If Lau's connection to Clinton winds up a public liability, the biggest loser may be Rita Hayes, who is nominated to be ambassador to the World Trade Organization. Her Senate confirmation hearings could begin as early as this month, and they promise, like so many things connected to Clinton and campaigns, to be rocky indeed. ■

SEPTEMBER 8, 1997 NEWSWEEK 55

BEST AVAILABLE COPY

A New Man in Donorgate?

IN BEIJING THE TALKS WERE DOWN TO THE WIRE. IN THE BALANCE: billions of dollars in the textile and apparel trade between the U.S. and China. Chief U.S. negotiator Rita Hayes climbed into a Chinese limo for a key meeting last January and was joined for a 20-minute ride by Stephen Lau, a Hong Kong textile tycoon and self-described adviser to the Chinese.

As an exporter of Chinese goods to the U.S., Lau had a big financial stake in the talks. What gained him his unusual access to Hayes? His political connections may have helped. His American business partner, Tom Nastos of New York, is a major donor to the Democratic Party: he, his wife and one of his firms have given \$90,000 since late 1995. The White House invited Lau to two pre-election fund raisers with Clinton in

Washington (Nastos was invited to one). Lau's D.C. lobbyist was once a U.S. trade negotiator who gained entrée to Hayes' confidential briefings, once reserved for U.S. industry.

In the Beijing encounter, Hayes accepted Lau's offer to help arrange a meeting with China's trade minister. Several weeks later, the two sides initialed an agreement criticized by some industry figures as a giveaway to China. Hayes told TIME that Lau had no influence on the talks and that she was "totally unaware" that in 1995 Lau, his companies and a business associate paid \$3 million to settle a federal lawsuit charging them with making false declarations to Customs. Hayes says she knows nothing of Lau's links to the Democratic Party. Of her apparently brief sessions with Lau and his lobbyist this year and last in San Francisco and Beijing, she simply says, "Stephen offered his assistance." —By Michael Weisskopf and

Adam Zatorin/Washington

BEST AVAILABLE COPY

Just a Little Favoritism Among Friends

White House Chief of Staff Erskine Bowles is by all accounts a splendid, honorable fellow. So how is it that a textile deal this year between the U.S. and China managed to do a large favor for the company run by his wife?

That's the question I've been asking as I've recently found myself immersed in the mind-numbing world of textile trade protection. This isn't something the paparazzi will turn to next, believe me. But it is a story of how Washington really works and why most Americans don't trust it. It's more proof, if any more were needed, that government power is usually bent to aid the powerful, often subtly and in secret.

One of the powerful is Springs Industries, of Fort Mill, S.C., whose president and chief operating officer is Crandall Close Bowles. The Close family owns about 45% of the \$2.2 billion textile maker, which sure swings a big stick in the Beltway.

That's clear from the U.S.-China textile pact that was renegotiated in February for another four years. Because China is a big exporter of fabric and apparel, this is always a lobbying free-for-all. The U.S. fed the frenzy this time with an opening proposal to reduce most Chinese import quotas by nearly 30%.

But, intriguingly, in the final deal only three of the 50-or-so quota categories that were adjusted were cut by that much. And only one of those three was a finished product: cotton towels. The overall quota cutback among all categories was 2.6%, but cotton towels were cut by 31%, or about nine million towels a year, worth about 36% of the overall cutback's net dollar value.

Guess who makes cotton towels? Springs Industries. At least it has since

Potomac Watch

By Paul A. Gigot

1995, when Springs bought a U.S. towel maker named Dundee Mills. The executive appointed at that time to oversee the new Springs bath products group that included towels was Crandall Bowles.

She helped to boost towel sales to nearly \$200 million a year and a market share of about 14%. But the competition is tough, so yanking nine million towels (about 5% of total U.S. imports) from China's quota has to be a big help to U.S. producers like Springs, especially with towels now in tight supply.

Could all of this just be a political coincidence, comrade? That's the story from U.S. textile trade officials, who all say the Bowleses' prominence had nothing to do with their towel snapping. A Springs spokesman says Ms. Bowles was merely "briefed" on the U.S.-China talks. Mr. Bowles says he's recused himself from even discussing textile matters, which one would expect. He adds that he and his wife each do their own independent professional thing, like many modern couples.

I'm happy to believe the Bowleses, although the way Washington now works it really doesn't matter. Springs's trade priorities were clear enough, and every Washington textile official knows who runs Springs. Rika Hayes, the chief U.S. textile negotiator, is a South Carolinian who's known Springs executives for years. The main Springs lobbyist, Susana Lord, was one of several industry types who joined Ms. Hayes on the China textile trip that closed the deal in February.



Crandall Bowles

Don Poots, Ms. Hayes's detail man on China, acknowledges talking to Ms. Lord about Springs's trade priorities in the past, though not on that China trip. His explanation for the towel twist is that both the U.S. textile industry and the Chinese requested it because China wasn't filling its towel quota. What other sources say, however, is that towels weren't on the industry lobby's priority list for the China deal. Neither Mr. Poots nor the industry lobby will give me the list.

As for China, it was simply learning how to play U.S. trade politics like the Greeks (foreign devils). According to a source familiar with the Chinese delegation's thinking, China figured its best chance to increase its export quotas was in value-added products like sweaters and shirts. But it had to give something in return, and the best candidates were areas it judged to have the greatest U.S. domestic political pressure. The Chinese were well aware of both Springs and Crandall Bowles, among others.

Bob Thompson, the Springs spokesman, dismisses all of this as "only debilitating speculation arising from the current 'China Fever.'" He adds that if Springs were so powerful then quotas wouldn't have been cut on printcloth, which it imports. "Some influence," he says. I think he's too modest. Somehow Springs's clout helped win government aid that will pad its bottom line.

In further explanation, Ms. Hayes, the U.S. textile dealmaker, says, "You could also say that if I did this for Springs, I also did it for Fieldcrest Cannon," a bigger U.S. towel-maker. She's right, but how is that supposed to make Americans paying more for towels any happier?

Maybe someone should ask Ms. Hayes that question at her Senate hearing on her pending promotion to be U.S. ambassador to the World Trade Organization. At a hearing last year for her current job, Sens. Rod Grams and John Ashcroft grilled her about openness in trade talks, but she danced around them like Gregory Hines.

In her new job, Ms. Hayes is supposed to encourage more trade, presumably even in towels.

BEST AVAILABLE COPY

Response of Rita D. Hayes
to
Articles in *The New Republic*,
***Newsweek*, *Time* and**
the Wall Street Journal

News articles about our bilateral with China began in June, shortly after my nomination was announced and nearly six months after the agreement was made. Our trade agreement with China was recorded, like all such agreements, in a memorandum of understanding. The MOU is not normally made public until it is reduced to writing in the language of both parties and ratified by an exchange of notes. Mr. Judis of *The New Republic* claimed that "American textile manufacturers had demanded that the phase-out of China's textile quotas begin the day China enters the WTO, and run a full ten years, rather than ending in 2004." He claimed that I negotiated a secret deal without their knowledge or advice that prevents them from obtaining that goal." The industry did want China's textile quotas phased out over ten years after accession to the WTO. We sought that without success and then moved to the alternative the industry proposed. Though quotas will end in 2004, the United States will have a "special safeguard" from 2005-2009, allowing us to impose quotas on China textile and apparel imports that "disrupt our market."

Despite what we told him, Mr. Judis wrote an article in *The New Republic* ("Trick of the Trade," *The New Republic*, June 16, 1997), charging that we misrepresented the China agreement to the textile and apparel industry. I denied his charges as "outrageous, false,

unfounded, and absurd” in a statement attached to this statement. The American Textile Manufacturers Institute and the American Apparel Manufacturers Association both confirmed my position and vehemently denounced the article. In a couple of weeks, the matter died because there were no facts to sustain it.

When it became clear that my nomination was going forward for confirmation, another round of unfounded stories began appearing. Mark Hosenball wrote an article, “Cut from a Strange Cloth” in *Newsweek*. Michael Weiskopf and Adam Zagorin wrote “A New Man in Donorgate” in *Time*. On September 5, Paul Gigot wrote a column in the *Wall Street Journal*, “Just a Little Favoritism Among Friends.” Each of these stories turns on slightly different details, but they all have a lot in common. They are written by reporters who do not normally cover textile trade issues, yet they contain arcane details that can only come from someone who follows the subject continuously. On September 8, 1997, John Maggs, writing in the *Journal of Commerce*, identified the “source of the charges in *Time* and *Newsweek*” as a textile firm not pleased with our China bilateral. The following day, the *Journal of Commerce* retracted that. So, as of now, all the articles come from an undisclosed source.

Whatever the source may be, the stories are unfounded and unfair. Let me take them one-by-one and explain why.

Mark Hosenball entitles his story, “Cut from a Strange Cloth,” (*Newsweek*, September 8, 1997). The cloth is strange only because of the way Mr. Hosenball weaves the facts. His

innuendoes about me hinge on a meeting at MOFTEC, China's Ministry of Trade. Here are the facts about that meeting, facts I explained to Mr. Hosenball but he chose not to report:

After three days of round-the-clock negotiation, I felt that we were finally converging on a textile trade agreement with China. I sat down to brief the Americans who had come to Beijing to monitor the negotiations. At every trade negotiation, parties with a stake in the talks send lawyers, lobbyists, and trade experts to follow the action. There were once "cleared textile advisors," but the practice was abandoned in 1994. We now give non-confidential status reports to all comers, knowing that their interest cover the spectrum.

On this occasion, we met at MOFTEC because we did not want to leave the building and risk a break in the momentum. When the meeting began, I gave everyone a snapshot of where the talks stood--our offers, their counter-offers. I said that for the first time, I thought we were closing in on an agreement. Hosenball compares this "to U.S. arms-control negotiators holding a strategy meeting in the Kremlin." That's not just absurd, but grossly unfair. I explained to Hosenball exactly what happened at our meeting. If the Chinese were listening, all they heard was what they had heard for the last three days over the negotiating table.

I knew that the quota levels I outlined were not final but I did not reveal our strategy. I ended the meeting by asking those there not to broadcast the details because they were subject to change. I knew that we would not wrap up the talks where we stood then, and I did not want industry representatives or the media to raise expectations that we could not fulfill.

Mr. Hosenball writes that "to the dismay of American textile lobbyists," one person at our meeting, Mr. William Houston, was not asked to leave. Twenty-six parties were present at that meeting, and not one raised the issue of Mr. Houston's attendance. During the Reagan Administrations, Mr. Houston was Deputy Assistant Secretary of Commerce for Textiles and Apparel, served as Chairman of the Committee for Implementation of Textile Agreements and also served as the Chief Textile Negotiator at U.S.T.R. He is now a partner at a law firm that represents importers and exporters, foreign and domestic. It did not occur to me to ask him to leave since his interest were little different from other importers at the meeting, all of whom wanted more generous quotas on Chinese textile and apparel so that they could import more into the U.S.

Mr. Hosenball reports that Mr. Houston includes among his clients Mr. Stephen Lau, who is said to be a Hong Kong clothing exporter and trade advisor to the Chinese government. Hosenball accuses Lau of making illegal campaign contributions and of being investigated for U.S. Customs' violations. I have met Mr. Lau because like many exporters, he followed our negotiations, but I have never had anything more than superficial conversations with him. Mr. Houston introduced Mr. Lau to me as a trade advisor to the Chinese government in the lobby of the hotel where we held negotiations in San Francisco. I have never known what his capacity as an advisor may be, but on the chance that he did have access to the Ministry of Trade, I told him that two things must happen for the U.S. to reach an agreement with China: we had to have quota reductions and we had to gain market access. We insisted on quota reduction because of China's circumvention and lax compliance with our previous bilateral, and because we wanted cuts in

donor categories (overhang).

Michael Weiskopf and Adam Zagorin write in *Time* ("A New Man in Donorgate, September 8, 1997) that I "accepted Lau's offer to arrange a meeting with China's trade minister." Mr. Lau did tell me that he could arrange a meeting with Madame Wu Yi, the Minister of Trade, and I acknowledged that I wanted to meet with her. But I did not pursue Lau's offer of assistance. I arranged a meeting with Madame Wu Yi through the State Department and our embassy in Beijing, and I have a cable to confirm that fact.

On the morning we saw Madam Wu Yi, the Chinese government sent an automobile to take our delegation to the Ministry of Trade. Mr. Lau appeared and got in the front seat. I was unaware that Lau would accompany our delegation, but I was not in a position to tell the Ministry of Trade who could ride in its automobile. In any event, Lau only accompanied our delegation to the Ministry of Trade; he did not attend the meeting; and we had nothing more than perfunctory conversation. I have had no other contacts with Mr. Lau, and I know absolutely nothing about any alleged campaign contributions or Customs' violations. As I have told the media, Mr. Stephen Lau had no influence whatsoever on our agreement.

The proof of our China negotiations is in the agreement. Mr. Hosenball claims that after our meeting at MOFTEC, the talks broke apart, and "some of the quotas I had trumpeted just days before were watered down." The talks did not break down. As I expected, there was more give and take, but we stood firm on our basic demands. After grueling negotiations, we ended up

with a trade agreement the textile industry as a whole has extolled. While there were some increases, there was a net decrease of 2.6% in China's quotas or 52 million square meters, and we held annual quota growth very low while the rest of the world averages 7%. We kept in the agreement the tough sanctions on transshipment and evasion that we had insisted upon at the outset; and for the first time, we won access to China's markets for U.S. textile products. Tariffs will fall from a high of 17% to new levels of tariffs will average 9% for yarn, fabrics 22% and made-ups 21%.

For these reasons, both the American Textile Manufacturers Institute (ATMI) and the American Apparel Manufacturers Association (AAMA) hailed our agreement. ATMI has said that our bilateral with China "achieves more benefits for the U.S. textile industry than any previous agreements."

From this complex agreement with hundreds of product quotas, Paul Gigot extracts one detail. He raises a question in the *Wall Street Journal* about a quota reduction of 31% in terry cloth towels. Gigot suggests that this cut just might have been a favor to Springs Industries, Inc. He notes that Springs' chief operating officer, Crandall Bowles, is the wife of Erskine Bowles, the President's Chief of Staff. Though this is a sizeable cut, there were deeper quota cuts in other categories. For example, wool fabric was cut 50% and certain yarn quotas were cut as much as 40%. Furthermore, Springs has only a small percent of the domestic towel market, and stood to benefit far less from such a reduction than two other companies. In any event, we did not originate this cut. It was proposed by the Chinese at our negotiations in San Francisco in

December 1996. We were looking for quotas that the Chinese did not fill as quotas we could cut, and China proposed terry cloth towels.

I have never spoken about this or any other textile subject with Erskine Boweles. As for benefits to Springs, the very purpose of an agreement restraining textile imports is to protect the domestic industry as a whole. It should not be surprising to find in our bilateral quota cuts that benefit Springs because Springs is one of the largest textile companies in the country.

Though we brought back a strong bilateral, some were still not pleased. They wanted the agreement to provide that if China joins the World Trade Organization, quotas on China's textile/apparel exports to the U.S. will last for ten years after China's accession to the WTO. As I stated above, when the negotiations began, we sought a ten-year phase-out, but the Chinese rejected the proposal. As an alternative we negotiated a "special safeguard," the right to impose restraints on imports that disrupt our market from 2005-2009, after quotas have ended.

Both trade associations, ATMI and AAMA, explained to Mr. Hosenball, Mr. Weiskopf, and Mr. Gigot that a dissatisfied handful does not speak for the U.S. textile and apparel industry as a whole, but they ignored what they were told and reported only what they were supplied by a few dissidents.

In summary, all of these stories stem from an undisclosed but dissatisfied source, and the claims they make will not bear scrutiny.

EXECUTIVE OFFICE OF THE PRESIDENT
THE UNITED STATES TRADE REPRESENTATIVE
WASHINGTON, D.C. 20508

JUN 5 1997

Mr. Michael Kelly, Editor
"Letter to the Editor" Section
New Republic
1220 19th Street, NW
Washington, D.C. 20036

Dear Mr. Kelly:

The recent article by John Judis (June 16, 1997) provides a maliciously false account of the bilateral agreement on textiles and apparel between China and the United States. Perhaps most important, as a starting point, Mr. Judis failed to recognize that the agreement reached this January extends the terms of a 1994 accord which has reduced the volume of Chinese textile and apparel imports in the United States over the past three years.

In negotiating this agreement, we actively involved the U.S. textile and apparel industry at every step in the process. In fact, the industry overwhelmingly supports a key provision we sought that provides a special "safeguard" mechanism for the U.S. textile industry in the U.S. market for some time after China might become a member of the WTO. To be clear, this provision represents the highest level of enforceable trade terms after the ATC runs its course. The agreement governs textile trade terms among all WTO member countries through 2004.

There are no "secret" elements of this agreement. All provisions of this accord have been fully disclosed with the U.S. textile and apparel industry. The agreement is now initialed as a "Memorandum of Understanding" and will be publicly available when the United States and China exchange formal diplomatic notes, normal procedure in trade negotiations.

Regrettably, the author overlooks a number of important achievements in the agreement in addition to the real story about the safeguard mechanism. We opened the door to China's market for our exports in this sector for the first time for U.S. producers and strengthened enforcement terms against illegal transshipments. Accounts of the agreement in the press confirm broad industry consultation and disclosure of the terms of the agreement, including in the Journal of Commerce, February 6, 1997 which noted:

"... the pact gives the United States the right to use bilateral safeguard mechanisms to regulate Chinese exports. That would apply even if China becomes a member of the World Trade Organization and when worldwide quotas on textiles, negotiated as part of the global Agreement on Textiles and Clothing, expires in 2005."

Perhaps, next time Mr. Judis will seek a more complete picture of the terms and conditions of U.S. trade agreements prior to publishing information that is patently misleading and false.

Sincerely,

Rita D. Hayes/cm

Rita D. Hayes
Ambassador
Chief Textiles Negotiator



AMERICAN TEXTILE
MANUFACTURERS INSTITUTE

June 3, 1997

Mr. Michael Kelly
Editor
The New Republic
1220 19th Street, N.W.
Washington, D.C. 20036

Dear Mr. Kelly:

We have rarely seen an article as inaccurate as "Trick of the Trade" by John Judis that appeared in the June 16 issue of your magazine. Without checking the facts, the author maligns the United States Trade Representative Office's Chief Textile Negotiator, Rita D. Hayes, and misrepresents her achievement in successfully negotiating a landmark U.S./China textile trade bilateral agreement.

Judis discredits this landmark agreement, concluded with China in January of this year. Judis claims access to "a pirated copy" of "an agreement that Hayes signed and the administration refuses to make public." In fact, the administration makes every agreement public. Most trade negotiations conclude with a memorandum of understanding that is made public only when it has been reduced to a formal agreement in the language of both parties. The latest textile agreement with China is not yet available because the Chinese are painstakingly slow. When it is completed and signed, it will be a public document.

In another factual error, Judis suggests a "secret deal." This is ludicrous. Over the months this agreement was negotiated, Hayes conferred with the industry. And during each of the four negotiating sessions, beginning in October 1996 and ending in January of this year, she regularly briefed us, sometimes as often as twice a day. Her work as chief textile negotiator has been marked by honesty and openness coupled with a steadfastness to fight on behalf of U.S. trade interests. In addition, Hayes disclosed details of the agreement to members of the news media. Stories outlining the agreement appeared in the February 6 issue of *Daily News Record* and in *Inside U.S. Trade*.

To set the record straight, the administration was not "pursuing two parallel sets of negotiations with Beijing." When the American Textile Manufacturers Institute (ATMI) and the American Apparel Manufacturers Association (AAMA) set objectives for the negotiations, we wanted quotas on Chinese textile and apparel imports to endure and be phased out over 10 years after China's entry into the World Trade Organization (WTO), even though the 1994 General Agreement on Tariffs and Trade ends all such quotas in 2004. If this objective was unattainable, we proposed a "must-have" alternative — a special right to limit Chinese imports if those imports caused "market disruption" beginning in 2005. When the Chinese rebuffed our first



1130 Connecticut Ave., NW • Suite 1200 • Washington, DC 20036-3954
202-862-0500 • fax: 202-862-0570 • <http://www.atmi.org>

Printed on 100% recycled paper (100% post consumer)



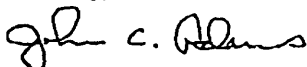
proposal, Hayes offered our alternative and prevailed. She did not "secretly reject the industry's position without consulting or later informing us," as Judis claims.

In briefing us on the agreement, in speeches on the subject and in news articles, Hayes pointed out that from 2005 through 2009, the China agreement locks in a special "safeguard" allowing the U.S. to impose quotas when certain textile or apparel imports from China cause "market disruption." She has never implied that quotas on Chinese imports would last for 10 years and continue unabated even if China joins the WTO; and we have never been under this impression.

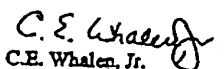
We are deeply disappointed that a magazine of your reputation would print such an article. It is utter nonsense to compare the China bilateral agreement to the Cambodian invasion or Iran-contra.

We write to set the record straight. There is no "secret textile deal with the Chinese." There is a hard-wrought historic agreement for which Hayes deserves immense credit for a job well done.

Sincerely,



John C. Adams
President
American Textile Manufacturers Institute



C.E. Whalen, Jr.
Chairman
American Apparel Manufacturers Association

**Written Questions of Senator William Roth
Nomination Hearing for Rita Hayes, Deputy USTR
Senate Committee on Finance
September 10, 1997**

QUESTION 1:

The European Union recently lost two high profile dispute settlement cases at the WTO, regarding its banana import regime and import restrictions on beef. Nonetheless, there is concern that the European Commission may cave in to domestic political pressure in Europe, refuse to implement the recommendations of panels in these cases, and will simply submit to WTO-sanctioned trade retaliation. Our objective in resolving these disputes is to get the Europeans to change their unfair trade regimes, not for the U.S. to undertake trade retaliation. Do you know what the Administration intends to do to ensure that the E.U. properly implements the panel decisions and recommendations?

ANSWER 1:

We entirely agree with you that our objective in resolving these disputes is to get the Europeans to change their unfair trade regimes. We tried to retaliate before under the GATT and they didn't change. The panel decisions do help set a precedence under the WTO which states that the EU practices are illegal. It will send a message to countries like Japan, to which we export beef, that they cannot impose restrictions on beef inconsistent under WTO rules. The following is a detailed update on the two cases against the EU. While the Dispute Settlement Understanding provides for retaliation at the end of the day, we are working rigorously to get the EU to implement the decisions. We have teams visiting the member states, demarches, press releases in a diplomatic effort to achieve such compliance. We will also press the EU in various WTO bodies, in particular the Dispute Settlement Body (DSB) at the time of adopting the reports, to state its intentions to comply. Once they do, we will begin the process of what will be appropriate process to implement. The president of the European Commission did announce recently the EC intention to comply with the Bananas decision. We will still need them to state this at the DSB. For Hormones, the EC will follow the step of appeal before they considered they have exhausted all of their present options. The following is a summary on each case.

Bananas

The Appellate Body report on bananas was released September 9. We will request that the panel and Appellate Body reports on bananas be put on the agenda for adoption at the next meeting of the WTO Dispute Settlement Body (DSB), which will take place on September 25.

The Appellate Body is the last avenue of appeal under WTO rules. WTO rules do not permit losing parties to "block" adoption of panel or Appellate Body reports, so these reports will be

adopted on September 25. When the reports are adopted, the recommendations in them become recommendations of the DSB.

At a DSB meeting held within 30 days afterward, the EU must declare its intentions with respect to implementation. Every WTO Member that has lost a case so far has stated that it plans to comply with the recommendations.

The EU has an opportunity to propose the period of time it needs to comply with the recommendations. If that period of time is not approved by the DSB, then within 45 days after adoption of the AB and panel reports, the parties to a dispute must reach agreement on the period of time that the losing party will have for implementation. If we fail to reach agreement with the EU on the implementation period, we can go to arbitration and have the arbitrator set the implementation period.

If the end of the implementation period arrives and the EU has not yet implemented the recommendations, then the EU must negotiate with the complaining parties on compensation, and if it cannot reach agreement on compensation, then the complaining parties may propose retaliation. The EU then cannot block approval of retaliation against it.

Hormones

The panel reports in the US v. EU dispute and the Canada v. EU dispute were both circulated on August 18. We will request that the report be put on the agenda for adoption at the September 25 DSB meeting, but we expect that the EU will file a notice of appeal. EU Agriculture Commissioner Franz Fischler has already held a press conference denouncing the panel report and stating that the EU will appeal. WTO appeals normally are completed in 60 days from the date of the notice of appeal, though in complicated cases the Appellate Body can take up to 90 days. We suspect the Appellate Body will take close to the full 90 days for this appeal.

We have said that we expect the EU to comply with the panel and Appellate Body recommendations.

QUESTION 2:

Your nomination file includes comments submitted by the United States to the World Trade Organization, dated July 23, 1996, which address the issue of implementation of the WTO Agreement on Textiles and Clothing. On page three of these comments, there is a footnote that states, "most exporting Members have not integrated any meaningful or sensitive products in the fabric, apparel or made-up groups."

How do you respond to criticisms that the United States has also dragged its feet in integrating important and sensitive products into the new WTO rules? If foot dragging is a problem with all countries, including the United States, then how do we ensure proper implementation of the Uruguay Round commitments to integrate textile and apparel trade into the rules of the WTO and eliminate quotas by the 2005 deadline?

ANSWER 2:

Product integration is only part of the liberalization of the textile system in the ATC; the other component of liberalization provided is progressive increases in quota growth rates, which expands access at faster rates than under bilateral agreements under the Multifiber Arrangement. The comment quoted was my response to criticism from exporting countries that we had not integrated meaningful and sensitive products. My point was first that the criticism was a double standard; my second was that we were following the letter of the ATC, the specific intent of the ATC negotiators, and our own implementing legislation in selecting products for early integration.

The ATC and the Uruguay Round Agreements Act, Statement of Administrative Action instructed us to integrate products from groups of yarn, fabric, made up products and apparel. Congress instructed us specifically to ensure that sensitive products be integrated only at the end of the transition period, and to follow specific procedural steps in making the selection of products, such as public hearings, which we agreed to at the specific request of the importers who sought an "open and fair" process. The URAA also provides that the SAA "approved by the Congress under section 101(a) shall be regarded as an authoritative expression by the United States concerning the interpretation and application of the Uruguay Round Agreements and this Act in any judicial proceeding in which a question arises concerning such interpretation or application."

I followed those procedures when I was Chair of CITA. Also, at the request of the importing community, we agreed to make the selection of products that would be integrated over the course of the transition period at the outset of the transition period. This is an area where we went above and beyond the requirements of the ATC to help U.S. importers, who made this request so that they could have certainty over the 10 year period. No other country did this.

As such, the Europeans for example can decide later what products can be bargained off

for other concessions the Europeans want from exporting countries. If they get the other concessions, then they will integrate products of interest to the exporting countries sooner. During the CTG meeting held last year, many exporting countries complained about the EU tactic.

Furthermore, no importing country selected products under quota for integration in the first stage, with the single exception of work gloves, which were integrated by Canada in the first stage. Selections for the second stage included certain goods under quota, but again, generally not goods that are considered "sensitive" as a result of our analysis and public comment process. Nor did exporting countries generally integrate "sensitive" commodities in the first or second stage. Some countries integrated goods that they did not import; other countries integrated negligible amounts of apparel. Other countries integrated items such as garden umbrellas, apparel made of coated fabric, life jackets and felt hats.

This was very much along the same lines of the decisions that were anticipated during the course of the Uruguay Round negotiations. The criticism at the CTG by exporting countries was also directed at Europe and Canada, not just the U.S. Again, we followed the letter and intent of the ATC. The ATC does not require that a certain percentage of products under quota be integrated earlier or sensitive products. The ATC gives the flexibility to the importing country to make these on what products are to be integrated at the various stages of the transition period.

Among our trading partners, India has been one of our most vocal critics on the product integration issue. India has claimed that we have not selected any meaningful products for early integration under the textile agreement. India is also subject to the same integration commitments as we are because even though they do not at present use ATC quotas, they have retained their rights to use the special textile safeguard during the transition.

As I responded at the Council on Trade in Goods, according to our analysis, India has chosen, as we have, to integrate what would normally be considered non-sensitive products in the first stage, including raw materials that are used in export production, and products that are not imported into India. Certainly, India has not integrated very much of "meaningful" export potential for the U.S. or other countries in the first stage.

The ATC requires that products, whether under quota or not, from a universe of products in the Annex be integrated into GATT 1994 rules. That means that existing quotas are removed at that point if there is one, if the product was not under quota, a quota can be put on only in accordance with GATT 1994 rules. No longer will the ATC special quota or safeguard rules apply.

Last year at the WTO Council on Trade in Goods, I also pointed out how many exporting countries were not living up their commitment with respect to Article 7 of the ATC, to achieve improved market access. Instead many of them were finding ways to decrease market access commitments.

For example, we have brought a case against Argentina on their WTO inconsistent tariff and customs practices. Another country had notified its tariff commitments but never

implemented them domestically. When we brought that to their attention, they sped up the process of domestic implementation and we did not have to take them to dispute settlement. Another country (India) has imposed disguised barriers to market access such as additional duties and restrictions on export and import licenses for American ventures in the host country, which we are looking into in the context of India's WTO obligations. The import license issue was particularly important to retailers and importers doing business in India. We are also taking this up in the context of WTO examination of their BOP (Balance of Payment) practices.

Article 7 of the ATC provides remedies for violations of that provision. It allows members to reverse notify; it allows members to bring matters of failure to meet market access commitments under Article 7 before WTO bodies, which includes a dispute settlement panel; and it provides a process to withhold accelerated growth. We would make a request to the DSB or the CTG if a country is not abiding by Article 7 of the ATC. This is what I addressed at the CTG last year. Many countries, the EU and exporting countries alike, approached me afterward recognizing the completeness of our analysis.

QUESTION 3:

Of the few instances, in which the United States has lost a dispute-settlement case at the World Trade Organization, two involve decisions by the Committee for the Implementation of Textile Agreements (CITA) to impose textile and apparel quotas which were made when you chaired CITA. It seems to me that these decisions may indicate some fundamental flaws in the way the United States administers its textile and apparel import regime through CITA.

In addition, there have been criticisms that the process by which CITA decides whether to impose import restrictions on textile and apparel products lacks fundamental fairness and transparency. Specifically, it is alleged that CITA's decisions are not based on a fully developed record, on which interested parties have an opportunity to comment in an open public hearing, and that CITA does not issue clearly reasoned decisions supported by substantial evidence in that record.

As a former chairman of CITA and Chief Textile Negotiator, please comment on whether these alleged procedural deficiencies may underlie the problems in defending CITA's decisions at the WTO. Should the CITA process be reformed in order to avoid future problems at the WTO and allegations of favoritism?

ANSWER 3:

CITA was created by Executive Order 11651 in 1972, by President Nixon. An Executive Order (12475) to allow Treasury, with guidance from the Chair of CITA, to promulgate rules and regulations to combat transshipment was issued by President Reagan in 1984. CITA was created to administer and implement textile agreements.

As you know we have a special statute -- Section 204 of the Agriculture Act of 1956 that gives the President broad authority to limit textile and apparel imports. U.S. domestic courts have upheld that authority. By the enactment of Section 204, the U.S. industry was determined to be sensitive to import surges and certainty with respect to the growth of imports. We also had a special international agreement -- the MFA (Multifiber Arrangement) -- to allow importing countries, not just the U.S., flexibility with respect to quotas on textile products. Now we have the Agreement on Textiles and Clothing under the WTO, which maintains a regime similar to the MFA, only it includes a phase out schedule for quotas and products that could be placed under quota outside of GATT 1994 rules.

When I was Chair of CITA we implemented the program in accordance with the Executive Orders and the statute. There were and are no regulations on meetings and procedures as may be the case with the ITC on dumping and subsidy determinations. If any one is interested in further reforms of CITA procedures, I am sure the Chair of CITA at the Department of Commerce will be happy to discuss it. I am no longer Chair of CITA. I have been Chief Textile

Negotiator at USTR since the end of 1995. Questions were presented to me about CITA transparency when I was confirmed for the negotiator position. USTR is a member of CITA with four other agencies (State, Treasury, Labor and Commerce).

With respect to safeguard action, the actions taken in 1995 were taken based on market statements prepared before the Uruguay Round. There has never been GATT panel scrutiny of any country textile safeguard actions until the WTO came into effect. With respect to WTO Members, we have received guidance from the panels on what they expect by way of documentation of CITA findings. The Department of Commerce, responsible for preparing the statements to be voted on by CITA, has greatly improved the market statements with more explanation and information. One request for safeguard action, made in March 1996 was settled (El Salvador - 342/642) before the WTO dispute cases were finished. We were told that one of the reasons was because the market statement was better. This year CITA made two calls or safeguard requests. The first, involving Pakistan, resulted in a decision not to implement the restraint because conditions improved before consultations were completed.

As Chief Textile Negotiator, I have supported more transparency and taking guidance from the panels on the content of the market statement. I have also been accessible to all parties in the U.S. with textile interests: domestic manufacturers, workers, retailers, importers, labor unions, etc. In fact, I have had joint meetings of interested parties so that one side does not feel the other got better briefed. We are an administration of transparency, as long as we do not compromise trade strategy and national security positions.

I would not be the first Chief Textile Negotiator to be nominated for the Geneva post. There were two before me (Peter Murphy and Michael B. Smith). In Geneva, as I stated months ago, we need to engage Congress and U.S. industry directly. I have already invited Members of Congress to come to Geneva and participate. I will uphold our standards on transparency, within the parameters of our laws and expectations.

Interestingly, in the China negotiations, I went out of my way to include all U.S. interested parties. I briefed them on what the Chinese already knew. I did not give one side more information than the others. That is also evidenced by the fact that the briefings were joint. If anyone had any questions after briefings I was still accessible.

Written Questions of Senator John Chafee
Nomination Hearing for Rita Hayes, Deputy USTR
Senate Finance Committee
September 10, 1997

Question 1

In Rhode Island, we have firms which make the elastic bands used in the production of various men's and women's garments (such as swimwear and underwear). Our producers are efficient and competitive, and sell a quality product both at home and overseas. However, there is one overseas market that stubbornly is resisting efforts to enter and compete: India. Apparently, India's tariffs on elastics are as high as 87.5 percent -- a rate which effectively precludes Rhode Island manufacturers from competing in that market. That lack of entry is of special concern to our companies in light of the recent entry into the US market of Indian elastic producers who are selling their product at very low prices. The Rhode Island companies officials believe they can compete and win with regard to this product, but they need to gain access to the Indian market for that to happen.

As Chief Textile Negotiator, you likely are aware of this situation. I confirmed as Deputy USTR, what will you do to promote increased market access in India and to this market in particular?

Answer

I have recently been informed by one Rhode Island company of concerns they have about obtaining access to India's market for elastic products. We at USTR are reviewing his concerns, and we intend to pursue opportunities in negotiations with India to open its market for exports of this product from the U.S. We may have the opportunity to raise our concerns about this product and others as we consult with India on its practices to limit access to its market through the use of restrictions maintained under Balance of Payments WTO rules, and we are looking into this, as well as the concerns of this firm regarding imports of elastic products into the U.S. from India. We believe the opening of the Indian market for exports from the United States in the textile and apparel sector, for the benefit of our competitive products of goods such as elastic, is a high priority. For that reason, we took the lead in obtaining for the first time in the Uruguay Round of trade negotiations binding commitments from India on tariff levels and liberalization in the textile sector. We will continue to press India to go further where we can for the benefit of U.S. exporters.

Question 2

USTR just won an important WTO case on Intellectual property rights (specifically, patents) in India -- the first IPR case decided by the WTO. Please comment on this case. Will this win encourage other developing nations to meet their TRIPS commitments?

Answer

This case represents an unqualified victory for the United States, and will have far-reaching consequences. I believe that it will indeed encourage other developing countries to meet their obligations under the WTO Agreement on Trade-Related Aspects of Intellectual Property Rights ("TRIPS Agreement"). The panel's decision sends a clear message to these countries that there is no free ride under TRIPS.

In the TRIPS Agreement, developing countries such as India, that did not provide patent protection for pharmaceutical and agricultural chemicals, were given ten years to establish such protection. In the meantime, however, these countries were required to establish a "mailbox" system to receive patent applications, and to assign each application a priority date based on the date the application was filed. For an invention to be given patent protection, it must generally be new, involve an inventive step, and be capable of industrial application. Under the mailbox system, countries must determine whether an invention is new and involves an inventive step as of the priority date of the mailbox application. In addition, the TRIPS Agreement requires that countries grant exclusive marketing rights to certain products that are subject to mailbox applications.

The panel's final report agreed with the U.S. claim that India has failed to implement its obligations under Articles 70(8) and 70(9) of TRIPS to establish mailbox and exclusive marketing rights systems. India's assertions that an unpublished administrative system qualified as a mailbox system were firmly rejected. All developing countries are now on notice that they must fully and immediately implement the mailbox and exclusive marketing rights obligations under the TRIPS Agreement.

In addition, the panel expressed its opinion that India was in violation of Article 63 of TRIPS because it never notified the WTO of the legal basis for its current administrative system for the filing of mailbox applications. This portion of the report puts developing countries on notice that they are obligated under the TRIPS Agreement to notify immediately their implementation of the mailbox and exclusive marketing provisions. In this way, the panel report will strengthen significantly the United States' ability to track TRIPS compliance.

Question 3

Finally, you will be headed to Geneva, where the US has important cases before the WTO. I previously have stressed the important of having enough resources to ensure that we do the best work possible on those cases. Yet USTR is under funded and understaffed. I am not referring to political appointees; I am referring to the career lawyers who write the critical WTO briefs.

As the nominee for the Geneva post, you understand the importance of having adequate resources to win these WTO cases. Will you do what you can to help persuade OMB to give

USTR a more realistic budget request?

Answer

I will continue to work with the Office of Management and Budget to provide adequate funding to meet our rising caseload.

Written Questions of Senator Charles Grassley
 Nomination Hearing for Rita Hayes, Deputy USTR
 Senate Finance Committee
 September 10, 1997

Question 1:

In my opinion the most significant action at the World Trade Organization in the next few years will be the accession of China to the WTO. The terms by which China accedes to the WTO will have a tremendous impact on many sectors of our economy. In agriculture, the terms of accession will determine whether China is our number one export market for agricultural commodities or our biggest trading competitor.

I have been concerned that some members of this Administration, and especially some of our trading partners, want China in the WTO for reasons other than trade, such as national security. While this may be a perfectly legitimate goal, I'm concerned that the people who take this view may be willing to compromise on the commercial terms under which China will enter.

Because of this concern, I took the liberty of questioning both Secretary of State Albright and Ambassador Barshesky at their nomination hearings earlier this year. For the record, I want to get your reaction to their opinion on how the U.S. should handle China's accession. Please tell me whether you agree with these statements:

Ambassador Barshesky said:

"The United States supports China's accession into the World Trade Organization on the basis of a commercially meaningful agreement. We expect solid commitments on the rules of the WTO, including national treatment and trading rights, as well as reducing tariffs, eliminating non-tariff measures and removing other barriers to trade."

Secretary Albright said:

"We have requested that China make significant commitments to liberalize its agricultural trading regime, including reforming its state trading system, making substantial tariff cuts, eliminating unjustified sanitary and phytosanitary measures, and binding its subsidy level."

"If China is to join the WTO, we will need to have a commercially acceptable protocol package of commitments by China to open its markets in-hand before we will agree to China's accession. That means real market access for U.S. goods and services, including agriculture."

Do you agree with these statements?

Answer:

- I can assure you that the Administration fully recognizes that we must have commercially meaningful commitments from China to be able to support that country's accession to the WTO. To accept anything less would be a mistake from the perspective of our immediate interest in improved access to China's markets and compliance with international rules and our longer term bilateral and multilateral trade relations with that country. Ultimately, Congress must act before the United States can apply the WTO Agreement to China and many in congress have noted the importance of obtaining a good accession package.

- The United States has always maintained that the timing of China's accession will be based solely on the quality of China's offers. As of now, China's offers are simply not adequate, and do not address critical U.S. concerns in areas such as agriculture and services.
- Other WTO members are, of course, free to negotiate with China according to what they deem as in their best interest, be it commercial or otherwise.
- Many countries look to the United States to hold the line with China and ensure the quality of China's commitments. U.S. negotiators, however, will not be pressured into closing prematurely based on the decisions of other Working Party members (or by non-trade factors) and will continue to seek an commercially meaningful agreement, i.e., an agreement that addresses the full range of U.S. interests.

Question 2:

Another significant action of the WTO in the next few years, in my opinion, will be the round of agriculture talks to begin in 1999.

What is the administration doing to prepare for these negotiations?

What will your priorities be in these negotiations?

Answer:

Our principal negotiating objective with respect to agriculture is to achieve, on an expedited basis, fairer and more open conditions of trade in agricultural commodities by- (A) reducing or eliminating tariffs or other charges which decrease market opportunities for United States exports; (B) reducing or eliminating subsidies which decrease market opportunities for United States exports or distort agricultural markets to the detriment of United States agriculture; (C) developing, strengthening and clarifying rules which address practices that unfairly decrease United States market access opportunities or distort agricultural markets to the detriment of United States agriculture, including- (i) unfair or trade-distorting activities of state trading enterprises and other administrative mechanisms; (ii) unjustified restrictions or commercial requirements affecting new technologies; and (iii) unjustified sanitary or phytosanitary restrictions. We will work closely with the agricultural community, our agricultural advisors in the Agriculture Policy Advisory Committee and the Agricultural Technical Advisory Committees, other government agencies and the Congress to ensure these objectives are met in a new multilateral trade agreement.

Written Questions of Senator Don Nickles
Nomination Hearing for Rita Hayes, Deputy USTR
Senate Committee on Finance
September 10, 1997

QUESTION #1:

Why did Ms. Hayes decide to conduct a briefing in the same building and during these sensitive negotiations? Was this briefing for U.S. lobbyists or to be limited to U.S. industry?

ANSWER

We were negotiating basically round-the-clock and had not left the building. I felt that we were finally converging on a textile trade agreement with China and did not want to lose the momentum of the talks. So I called the U.S. interested parties to MOFTEC for a snap shot briefing on information I had already been discussing with the Chinese. The briefing was for U.S. lobbyists or interested parties, not limited to the U.S. domestic manufacturing industry.

Since I have been Chief Textile Negotiator I have given snapshot briefings. In this case, I especially had no concern about information in the status report getting back to the Chinese, since the Chinese already had the information. I only cautioned the attendees that the negotiations were not final and the status report should not be broadcast to the general public, like the press.

QUESTION #2

Did Ms. Hayes disclose confidential or privileged information during the briefing or at any time to Houston when he attended the Beijing briefing?

ANSWER

I did not disclose confidential or privileged information during the briefing or at any time to Houston when he attended the Beijing briefing. The briefing was a snap-shot status report on what I had just discussed with the Chinese across the negotiating table. It was information the Chinese already had.

QUESTION #3

Was Ms. Hayes influenced in any way in her negotiations by Houston?

ANSWER:

I was not influenced in any way in my negotiations by Houston. The interested parties were across the spectrum, including representatives of retailers and importers, other than Houston, who have business contacts with exporters as well.

QUESTION #4

Does Ms. Hayes know Stephen Lau, or his New York partner Tom Nastos?

ANSWER:

During these negotiations, Mr. Houston introduced Mr. Lau to me as a trade advisor to the Chinese government. Mr. Lau portrayed himself as such. I do not know Mr. Nastos.

QUESTION #5

Did Ms. Hayes ride with Stephen Lau in her limousine last January in Beijing during the treaty negotiations and if yes, what was discussed?

ANSWER:

On the morning we saw Madame Wu Yi and continued negotiations with the Chinese delegation, the Chinese government sent an automobile to take our delegation to the Ministry of Trade. It was not my limousine. Mr. Lau appeared and got in the front seat. I was unaware that Lau would accompany our delegation, but I was not in a position to tell the Ministry of Trade who could ride in its automobile. He portrayed himself as an adviser to the Chinese team. In any event, Lau only accompanied our delegation to the Ministry of Trade; he did not attend the meeting; and we had nothing more than a perfunctory conversation -- nothing related to the agreement. I have had no other contacts with Mr. Lau.

QUESTION #6

Did Lau offer Ms. Hayes help in arranging a meeting with China's trade minister?

ANSWER:

Mr. Lau did tell me that he would like to arrange a meeting with Madame Wu Yi, the Minister of Trade, and I acknowledged that certainly I wanted to meet with her. But I did not pursue Lau's offer of assistance. I arranged a meeting with Madame Wu Yi through the State Department and our embassy in Beijing, and the embassy has confirmed.

QUESTION #7

Was Ms. Hayes aware of Lau's partner, Tom Nastos's contributions to the Democratic Party in order to get Lau into two events with the President and to meet the President?

ANSWER:

No.

PREPARED STATEMENT OF HON. ERNEST HOLLINGS

I am pleased to introduce Rita D. Hayes of South Carolina as the administration's nominee to be Deputy United States Trade Representative and Ambassador to the World Trade Organization. It is a great honor to appear before you today on behalf of this nominee. I am confident that she will make an outstanding Ambassador and will provide strong leadership for the United States before the WTO.

Although I, on occasion, have differences with USTR, I am looking forward to working with Ambassador Hayes on a variety of issues in the years to come.

Ambassador Hayes is currently the United States' Chief Textile Negotiator. In this post, she is the chief advisor to the United States Trade Representative on all textile matters.

Ambassador Hayes has negotiated a variety of agreements with many of our trading partners and has worked to resolve textile disputes in an efficient and amicable manner. These efforts have received praise from both the textile and apparel industry and the labor unions representing workers in this industry, a truly remarkable achievement previously, as the Deputy Assistant Secretary for Textiles, Apparel and Consumer Products at the Department of Commerce, Ambassador Hayes was responsible for policy initiatives, domestic and international, that assist U.S. businesses and companies. She also worked to develop programs to improve the domestic and international competitiveness of American fiber, textile, apparel and consumer products.

These experiences will serve her well in her new role in Geneva.

I have known Ambassador Hayes and her family for a number of years. As you may know, her brother, former Congressman Butler Derrick, represented South Carolina in the House of Representatives for a number of years. Moreover, Ambassador Hayes also worked in the House of Representatives for both Congresswoman Elizabeth Patterson and Congressman John Spratt. I believe that this experience will prove invaluable as she begins the complex task of negotiating future trade agreements.

Prior to her political work, Ambassador Hayes was a teacher in South Carolina. She taught at both the intermediate level and at technical schools. These experiences will also serve her well at the WTO.

Ambassador Hayes holds a degree from the University of Georgia and has done graduate work at Winthrop College in South Carolina.

I also understand that one of Ambassador Hayes' children is here, John Hayes. Mr. Chairman, I would like to spend more time articulating my support for Ambassador Hayes, however, the Commerce Committee is conducting its own confirmation hearings this morning and I must be present. Thank you.

PREPARED STATEMENT OF NANCY KILLEFER

Mr. Chairman, Senator Moynihan, and distinguished members of the Committee, it is a distinct honor to come before the Senate Finance Committee to be considered for the position of Assistant Secretary of the Treasury for Management and Chief Financial Officer. I am also honored that the President and Secretary Rubin have seen fit to submit my nomination for your consideration. I am accompanied today by members of family: my husband, Bob Cumby, my children Jamie and Robbie, and my mother, Mrs. Constance Killefer.

The principle responsibility of this position in the Treasury Department is to provide a strong management support and oversight for the bureaus that make up the Treasury Department. In addition, and no less important, the job as the Chief Financial Officer brings together the overall financial interests of the Secretary and the operating officers of the bureaus.

When I look at the scope of the work that Treasury employees perform each year, their involvement in every aspect of our society makes it important that we do everything we can to enable each person in each bureau perform at their very best. It is Secretary Rubin's commitment to performance improvement that made me feel that I could make a contribution by seeking this job.

In preparation for my career in the business world, I graduated with a Bachelor's degree in Economics. After working for a micro-economics firm, I went on to obtain a Master of Science Management in Finance. During the last 18 years, I have specialized as a management consultant working with senior management at a number of America's largest corporations on a full range of management issues including strategy, organization, marketing and systems. My work has focused on how to improve performance within the financial and human resource limits that all organizations must face, whether private business, non-profit agencies, or the government.

Congress and the past two administrations have provided broad guidelines for improving government performance. The Chief Financial Officers Act of 1990, the Government Performance and Results Act of 1993, the Government Management Reform Act of 1994, the, and the Information Technology Management Reform Act of 1996 all point the way to using the experience from business and government to make the tax dollar work better for our taxpayers.

Because of this environment, and Secretary Rubin's commitment to change and improvement of all of the Treasury bureaus, I have been inspired to seek this position to help make that commitment a reality. I will use my experience to fill in the specific details to the guidelines developed by Congress.

My husband and our two children have encouraged me to take this leap. With the help of this committee, I hope to fulfill some part of all our hopes for making our government work better for the American people.

The White House,

JUN 26 1997

19

To the

Senate of the United States.

I nominate

Nancy Killefer, of Florida, to be

an Assistant Secretary of the Treasury, vice George Munoz.

William L. Clinton

**SENATE FINANCE COMMITTEE
STATEMENT OF INFORMATION REQUESTED OF NOMINEE**

A. BIOGRAPHICAL INFORMATION

1. Name: (Include any former names used.)

Nancy Killefer

2. Position to which nominated:

Assistant Secretary for Management and Chief Financial Officer of the Department of the Treasury.

3. Date of nomination:

June 27, 1997

4. Address: (List current residence, office, and mailing addresses.)

Home - 3114 44th Street, NW, Washington, DC 20016

Work - 1101 Pennsylvania Avenue, NW, Washington, DC 20004

5. Date and place of birth:

11/16/53, Key West, Florida

6. Marital status: (Include maiden name of wife or husband's name.)

Married to Robert Edward Cumby

7. Names and ages of children:

Jamie Elizabeth - 7 Robert Edward - 5

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

Massachusetts Institute of Technology, 9/77 to 5/79 MSM

Vassar College, 9/71 to 5/75 BA

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

Charles River Associates, Cambridge MA - Associate in economic consulting firm, 1975 to 1977

Metropolitan Cultural Alliance, Boston, MA - Associate, summer 1978

McKinsey & Company, Inc., Washington, DC - Associate, 1979 to 1985; Partner, 1985 to present; Director, 1991 to present.

10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)

None.

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

McKinsey & Company, Inc. partner, June 1985 to present.

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

None other than those that result from making charitable contributions.

13. Political affiliations and activities:

- a. List all public offices for which you have been a candidate.

None.

- b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

None.

- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

\$500 to congressional campaign of Jim Bassett

\$1,000 to George Bush presidential campaign

14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)

Member of Omicron Delta Epsilon Honor Society in Economics
Ruth Hutchinson Gillette Prize for Outstanding Senior Thesis in Monetary Economics
Departmental Honors from Vassar College

15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)

None.

16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with two copies of each formal speech.)

"Role of the Chief Financial Officer in Today's Corporation" (no prepared text).

17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

I have close to 18 years of experience in consulting for leading private sector corporations on the full range of management issues. I have an undergraduate degree in economics and a Masters degree in management with a concentration in Finance.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

Yes, except that assets will remain in my self-directed retirement account with McKinsey. No additional contributions will be made to that account after my partnership interest in McKinsey is terminated.

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

No.

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

No.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

None.

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

None.

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

None.

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with two copies of any trust or other agreements.)

If I were in such a position, I would immediately remove myself from the situation and seek the advice of the Treasury ethics office. I would take any action(s) that they deemed appropriate.

5. Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.

6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any international trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

Not applicable.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No.

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No.

4. Have you ever been convicted (including pleas of guilty or nolo contendere) of any criminal violation other than a minor traffic offense? If so, provide details.

No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes.

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes.

PREPARED STATEMENT OF DAVID A. LIPTON

I am honored to be here today in connection with my nomination to be Under Secretary for International Affairs at the U.S. Treasury Department. I am also honored that President Clinton and Secretary Rubin have expressed their confidence in me with this nomination. My wife, Susan Galbraith, and my two daughters, Anna and Sasha, are also here with me today. My four-year old son Gabriel stayed home today so that this hearing could be conducted without disruption.

For the past four and a half years I have served at the Treasury Department, first as the Assistant Secretary for International Affairs and before that as the Deputy Assistant Secretary for Eastern Europe and the Former Soviet Union. Before joining the Treasury Department, I spent a year as a Fellow at the Woodrow Wilson Center for Scholars, four years as an economic advisor helping transition countries establish market-oriented economic systems, and eight years on the staff of the IMF.

The past four and a half years have been a period of robust growth and low inflation worldwide, and thus a very satisfying time to have been at the U.S. Treasury. Perhaps most important, officials in most of the countries of the world now adhere to the "Washington Consensus" of sound fiscal policies and market and outward-oriented economic policies. That being said there have been, and will continue to be many challenges ahead, with the current financial turmoil in Asia as just one example.

If confirmed as Under Secretary, I will work to advance the Administration's goal of maintaining U.S. leadership on global economic issues. That work will include:

- First, working with our G-7 partners to pursue of macroeconomic policies consistent with strong rates of growth, low-inflation, and moderate external imbalances;
- Second, pressing the IFIs to support sound macroeconomic policies, strong market-oriented structural reforms, and good governance as conditions through their lending operations, and to make sure that U.S. exporters are able to benefit from MDB procurement;
- Third, using multilateral fora to encourage countries to pursue sound macroeconomic policies and market-oriented economic reforms;
- Fourth, offering technical assistance to help key developing countries implement their reforms; and
- Lastly, pressing our trading partners to reduce barriers to trade and investment, particularly tough negotiations to conclude a strong WTO financial services agreement.

I believe these activities are important to the United States, because growth and stability abroad mean growth and stability at home. If I am confirmed as Under Secretary, I will do all I can to see that this work will be undertaken with professionalism and integrity.

I look forward to working with the Congress and at the Treasury with Secretary Rubin and Deputy Secretary Summers to further these goals.

Thank you, Mr. Chairman. I would be happy to answer your questions.

The White House,

JUN 27 1997

19

To the

Senate of the United States.

I nominate

David A. Lipton, of Massachusetts,

to be an Under Secretary of the Treasury, vice Jeffrey R.

Shafer, resigned.

William I. Clinton

DEPARTMENT OF THE TREASURY

TREASURY NEWS

OFFICE OF PUBLIC AFFAIRS • 1540 PENNSYLVANIA AVENUE, N.W. • WASHINGTON, D.C. • 20220 • (202) 622-2960

FOR IMMEDIATE RELEASE
June 27, 1997

Contact: Kelly Crawford
(202) 622-2960

DAVID LIPTON NAMED UNDER SECRETARY FOR INTERNATIONAL AFFAIRS

President Clinton today announced his nomination of Assistant Secretary of the Treasury for International Affairs David A. Lipton to be Under Secretary of the Treasury for International Affairs.

"David has been an important part of this Administration's international economic team. He has been a key contributor to our policy toward Russia and the Ukraine and has been instrumental in shaping the economic and financial aspects of our policy in Bosnia," Secretary Rubin said.

As Under Secretary of the Treasury for International Affairs, Lipton will advise and assist the Secretary and the Deputy Secretary on all aspects of international economic policy. As Assistant Secretary of the Treasury for International Affairs since December 1995, Lipton focused on international and economic policy coordination; economic and financial relations with both industrialized and developing countries; foreign investment in the United States and the U.S. policy with respect to the International Monetary Fund and the multilateral development banks. Prior to this position, Lipton was the Deputy Assistant Secretary for Eastern Europe and the former Soviet Union. During this time, he worked to design and implement a policy of U.S. leadership in support of comprehensive, market oriented reform in the economies in transition and worked to engage the G-7 and the international financial institutions in pursuit of multilateral backing for that historic process.

Before joining the Clinton administration in the spring of 1993, Lipton was a Fellow at the Woodrow Wilson Center of Scholars. From 1989 until 1992, working under the auspices of the United Nations Development Program and the World Institute for Development Economics Research, he was an economic advisor to the governments of Russia, Poland and Slovenia. Lipton was an economist at the International Monetary Fund from 1981-1989.

Lipton was born on November 9, 1953 in Boston, Massachusetts. He received a B.A. in Economics from Wesleyan University and both an M.A. and a Ph.D. in Economics from Harvard University. He is married to Susan Galbraith and has three children.

-30-

RR-1795

For press releases, speeches, public schedules and official biographies, call our 24-hour fax line at (202) 622-2040

A. BIOGRAPHICAL INFORMATION

1. **Name: (Include any former names used.)**
David Aaron Lipton
2. **Position to which nominated:**
Undersecretary of the Treasury for International Affairs
3. **Date of nomination:**
June 27, 1997
4. **Address: (List current residence, office, and mailing addresses.)**
Residence:
3806 Shepherd St.
Chevy Chase, Md. 20815
Office:
U.S. Treasury Department
Room 3430
1500 Pennsylvania Ave.
Washington, D.C. 20220
5. **Date and place of birth:**
November 9, 1953
Boston, Mass.
6. **Marital status: (Include maiden name of wife or husband's name.)**
married: Mary Susan Galbraith

7. Names and ages of children:

Anna Rose Lipton Galbraith, 11
 Sasha Lipton Galbraith, 8
 Gabriel Lipton Galbraith, 3

8. Education: (List secondary and higher education institutions, dates attended, degree received, and date degree granted.)

Wayland High School, Wayland, Mass., 1967-71, graduated 1971

Wesleyan University, Middletown, Conn., 1971-75, B.A. 1975

Harvard University, Cambridge, Mass., 1975-80, M.A. 1979, Ph.d. 1981

9. Employment record: (List all jobs held since college, including the title or description of job, name of employer, location of work, and dates of employment.)

UNITED STATES TREASURY, OFFICE OF INTERNATIONAL AFFAIRS

ASSISTANT SECRETARY FOR INTERNATIONAL AFFAIRS (December 1995 - present)

- Formulate international economic policy and support Treasury Secretary in his conduct of international economic policy.
- Manage personnel and administration in Office of international affairs.

DEPUTY ASSISTANT SECRETARY FOR EASTERN EUROPE AND THE FORMER SOVIET UNION, (June 1993 - December 1995)

- Formulate policy toward Eastern Europe and former Soviet Union.
- Manage technical assistance program for the region.

FELLOW, WOODROW WILSON CENTER FOR SCHOLARS RESEARCH FELLOWSHIP, (September 1992 - May 1993)

- Conducting research on the economic and political consequences of the transformation in Poland and Russia.

VICE PRESIDENT, JEFFREY D. SACHS AND ASSOCIATES, INC.

POLICY ADVICE AND RESEARCH IN EASTERN EUROPE. (1989-1992)

- Senior economic advisor to the governments of Russia, Poland, and Slovenia.
- Conducted research on the economics of transformation in formerly centrally planned economies.
- Managed advisory and research teams in Eastern Europe, Russia, and Mongolia.

POLICY ADVICE IN LATIN AMERICA, (1989)

- Advised the Governments of Bolivia and Venezuela in the design and implementation of their macroeconomic and debt management policies.

INTERNATIONAL MONETARY FUND

ASIAN DEPARTMENT, SENIOR ECONOMIST (1987-89)

- Analyzed economic policymaking in Japan as part of IMF surveillance of industrial countries.

EXCHANGE AND TRADE RELATIONS DEPARTMENT AND WESTERN HEMISPHERE DEPARTMENT, ECONOMIST (1981-87)

- Worked on IMF policy toward the Paris Club and the official export credit agencies.
- Drafted policy papers for the IMF Executive Board on issues relating to IMF conditionality and IMF involvement in the resolution of the developing country debt crisis.
- Participated in IMF negotiations in ten countries in Africa, Asia, and the Western Hemisphere.

10. Government experience: (List any advisory, consultative, honorary, or other part-time service or positions with Federal, State or local governments, other than those listed above.)

None.

11. Business relationships: (List all positions held as an officer, director, trustee, partner, proprietor, agent, representative, or consultant of any corporation, company, firm, partnership, other business enterprise, or educational or other institution.)

Vice President, Jeffrey D. Sachs and Associates, Newtonville, Mass., 1989-92. I served as vice president of this small consulting firm, specializing in economic advisory services in Eastern Europe and Latin America. I had no ownership interest.

Limited Partner. 2025 Park Rd. Limited Partnership, Washington D.C. I was a 26 percent owner in a limited partnership that owned a house, rented to a nursery school, during the period 1989-93. The partnership was dissolved upon the sale of the property in 1993.

12. Memberships: (List all memberships and offices held in professional, fraternal, scholarly, civic, business, charitable, and other organizations.)

None.

13. Political affiliations and activities:

- a. List all public offices for which you have been a candidate.

None.

- b. List all memberships and offices held in and services rendered to all political parties or election committees during the last 10 years.

Democratic Party, 1971 - present.

- c. Itemize all political contributions to any individual, campaign organization, political party, political action committee, or similar entity of \$50 or more for the past 10 years.

Don Mooers for Congress, 1996: \$96.

14. Honors and Awards: (List all scholarships, fellowships, honorary degrees, honorary society memberships, military medals, and any other special recognitions for outstanding service or achievement.)

Phi Beta Kappa, elected 1974.

15. Published writings: (List the titles, publishers, and dates of all books, articles, reports, or other published materials you have written.)

--"A New Opportunity for Helping Russia's Economic Reforms Succeed," prepared for the Fund for Democracy and Development project United States Assistance to Russia: A Blueprint for Action, February 1993.

--"Russia: Reforms Endangered," in Foreign Policy Magazine, March, 1993.

--"The Prospects for Economic Reform in Russia," in *Brookings Papers on Economic Activity*, Brookings Institution, 1992(1), with Jeffrey Sachs.

--"The Remaining Steps to a Market-Based Monetary System in Russia," presented at Conference on the Transformation of Russia, Stockholm Institute for East European Economics, Stockholm, June 15, 1992, with Jeffrey Sachs.

--"Poland's Budget and the Economic Transformation," forthcoming in *Conference Volume on Transition in Eastern Europe*, the National Bureau of Economic Research, Cambridge, Massachusetts, with Alain deCrombrughe.

--"Privatization in Eastern Europe," in *Brookings Papers on Economic Activity*, Brookings Institution, 1990(2), with Jeffrey Sachs.

--"Poland's Economic Reform," in *Foreign Affairs*, Summer 1990, with Jeffrey Sachs.

--"Creating a Market Economy in Eastern Europe: The Case of Poland," in *Brookings Papers on Economic Activity*, Brookings Institution, 1990 (1), with Jeffrey Sachs.

--"External Debt and Economic Management: the Role of the International Monetary Fund," in External Debt Management edited by H. Mehran, International Monetary Fund, 1985, with K. Burke Dillon.

--"Multiple Shooting in Rational Expectations Models," *Econometrica*, September 1982, with J. Poterba, J. Sachs, and L. Summers.

--"The Supply Approach to Oil Shocks and the Slowdown in Japanese Economic Growth," in *Toyo Keizai Shinpo Sha*, June 1981, with Jeffrey Sachs.

--"Accumulation and Growth in a Two-Country Model," in *Journal of International Economics*, 1981, with Jeffrey Sachs.

16. Speeches: (List all formal speeches you have delivered during the past five years which are on topics relevant to the position for which you have been nominated. Provide the Committee with two copies of each formal speech.)

SPEECHES

- "Central Europe and the World Economy after Six Years of Transition," conference sponsored by Bank Austria and the Institute for East West Studies, March 13, 1996, New York.

- "Russian Reform and the Interests of the United States," before the U.S. Russia Business Council, April 1, 1996, Washington, DC.
- U.S. Governor's speech before the Annual Meeting of the European Bank for Reconstruction and Development, April 15, 1996, Sofia, Bulgaria.
- U.S. Governor's speech before the Annual Meeting of the African Development Bank Meetings, May 22, 1996, Abidjan, Africa.
- "Banking and Financial Sector Reform in Central Europe: the Challenge of Growth," conference organized by the William Davidson Institute of the University of Michigan, May 31, 1996, New York.
- "Economic Development and Prospects in Africa," before the Africa Trade Forum, July 26, 1996, Washington, DC.
- "Economic Reform and Institution Building in Bosnia," before the Economic Policy Forum of Sarajevo, January 12, 1997, Sarajevo, Bosnia.
- "Trade and Investment Linkages with the Eurasian Economies," before the U.S. Chamber of Commerce, American Business Alliance, March 4, 1997, Washington, DC.
- "Russian Reform and the Role of the United States," before conference hosted by Dow Jones, March 6, 1997, New York.
- U.S. Governor's speech before the Annual Meeting of the Inter-American Development Bank, March 17, 1997, Barcelona, Spain.
- U.S. Governor's speech before the IDB Annual Meeting, March 17, 1997, Barcelona, Spain.
- U.S. Governor's speech before the EBRD Annual Meeting, April 14, 1997, London, United Kingdom.
- "IFC Activities," before the IFC, May 6, 1997, Washington, DC.

TESTIMONY

- The Commerce, Consumer and Monetary Affairs Subcommittee of the House Committee on Government Relations, on importance of trade and investment in U.S. relations with Russia and the CIS, November 5, 1993.

- House Committee on Banking and Financial Services-Banking and Finance, on developments in China, Hong Kong and Taiwan, March 20, 1996.
 - Before the Subcommittee on African Affairs-Senate Committee on Foreign Relations, on Africa and our support for African development, May 1, 1996.
 - Before the Senate Committee on Foreign Relations-Harry Wu and the Laogai Research Foundation (China), on the role of the World Bank in China, July 25, 1996.
 - Asia and the Pacific Subcommittee International Economic Policy and Trade-House of Representatives, on International Financial Institution lending in Asia, September 12, 1996.
17. Qualifications: (State what, in your opinion, qualifies you to serve in the position to which you have been nominated.)

I have extensive experience in the area of international affairs, both from my education, prior work experiences before joining the U.S. Treasury, and over the last four years at Treasury. I bring a strong commitment to public service to this job and a belief in the importance to the United States of leadership in the world in the area of international economic policy.

B. FUTURE EMPLOYMENT RELATIONSHIPS

1. Will you sever all connections with your present employers, business firms, associations, or organizations if you are confirmed by the Senate? If not, provide details.

I have no relevant connections, as my present employer is the U.S. Treasury Department. I do not belong to any other associations or organizations.

2. Do you have any plans, commitments, or agreements to pursue outside employment, with or without compensation, during your service with the government? If so, provide details.

None.

3. Has any person or entity made a commitment or agreement to employ your services in any capacity after you leave government service? If so, provide details.

No.

4. If you are confirmed by the Senate, do you expect to serve out your full term or until the next Presidential election, whichever is applicable? If not, explain.

Yes.

C. POTENTIAL CONFLICTS OF INTEREST

1. Indicate any investments, obligations, liabilities, or other relationships which could involve potential conflicts of interest in the position to which you have been nominated.

None.

2. Describe any business relationship, dealing or financial transaction which you have had during the last 10 years, whether for yourself, on behalf of a client, or acting as an agent, that could in any way constitute or result in a possible conflict of interest in the position to which you have been nominated.

None.

3. Describe any activity during the past 10 years in which you have engaged for the purpose of directly or indirectly influencing the passage, defeat, or modification of any legislation or affecting the administration and execution of law or public policy. Activities performed as an employee of the Federal government need not be listed.

During the period 1989-93, I authored or co-authored several articles and papers (including those listed above) on the subject of the economic transition of the formerly communist countries of Eastern Europe and the former Soviet Union that were intended to inform and influence thinking about public policy. I also participated in a small number of conferences where my remarks centered on these subjects.

4. Explain how you will resolve any potential conflict of interest, including any that may be disclosed by your responses to the above items. (Provide the Committee with two copies of any trust or other agreements.)

If any conflict or potential conflict of interest were to arise, I would seek out the advice of the Treasury's General Counsel and take steps, consistent with the law, to ensure that I act appropriately in my job at all times.

5. Two copies of written opinions should be provided directly to the Committee by the designated agency ethics officer of the agency to which you have been nominated and by the Office of Government Ethics concerning potential conflicts of interest or any legal impediments to your serving in this position.
6. The following information is to be provided only by nominees to the positions of United States Trade Representative and Deputy United States Trade Representative:

Not applicable.

Have you ever represented, advised, or otherwise aided a foreign government or a foreign political organization with respect to any International trade matter? If so, provide the name of the foreign entity, a description of the work performed (including any work you supervised), the time frame of the work (e.g., March to December 1995), and the number of hours spent on the representation.

D. LEGAL AND OTHER MATTERS

1. Have you ever been the subject of a complaint or been investigated, disciplined, or otherwise cited for a breach of ethics for unprofessional conduct before any court, administrative agency, professional association, disciplinary committee, or other professional group? If so, provide details.

No.

2. Have you ever been investigated, arrested, charged, or held by any Federal, State, or other law enforcement authority for a violation of any Federal, State, county or municipal law, regulation, or ordinance, other than a minor traffic offense? If so, provide details.

No.

3. Have you ever been involved as a party in interest in any administrative agency proceeding or civil litigation? If so, provide details.

No.

4. Have you ever been convicted (including pleas of guilty or *nolo contendere*) of any criminal violation other than a minor traffic offense? If so, provide details.

No.

5. Please advise the Committee of any additional information, favorable or unfavorable, which you feel should be considered in connection with your nomination.

None.

E. TESTIFYING BEFORE CONGRESS

1. If you are confirmed by the Senate, are you willing to appear and testify before any duly constituted committee of the Congress on such occasions as you may be reasonably requested to do so?

Yes.

2. If you are confirmed by the Senate, are you willing to provide such information as is requested by such committees?

Yes.

Question 1 for Under Secretary Lipton

The countries of the former Soviet Union and Sub-Saharan Africa present some of our most difficult challenges in international economic policy. What is the current situation and future outlook for economic and financial reform in those regions?

Six years since the collapse of the Soviet Union, the newly independent states have made important strides in building the basis for market economies. Nonetheless, the decline in GDP related to the collapse of the communist system has been protracted and only recently has begun to turn around with a return to economic growth. Intensive financial and advisory support from the IMF and World Bank, as well as ongoing, large-scale U.S. assistance, have contributed to these countries' efforts to achieve macroeconomic stabilization and to undertake fundamental restructuring of their economies.

- Inflation and fiscal deficits are sharply down throughout the region.
- Trade has recovered strongly and been reoriented toward the world's industrial countries.
- 1996 was the first post-Soviet year of positive GDP growth in Armenia, Georgia, Kazakstan, Kyrgyzstan, and Uzbekistan.

The two largest economies in the region, Russia and Ukraine, still have not turned this corner: Russian GDP shrank approximately 6% in 1996, although projections for this year indicate that GDP may turn slightly positive. Ukrainian GDP is estimated to have fallen by 10% last year and expected to fall 3% in 1997. If these potentially powerful economies can tackle some of their fundamental challenges, such as improving poor fiscal performance and fostering a market-oriented investment climate, the outlook for growth in 1998 and beyond should improve significantly.

The end of the Cold War and of apartheid have fundamentally changed the economic and political landscape in Sub-Saharan Africa. Marxist regimes have collapsed, most post-colonial wars have ended, and more than 25 countries have held generally free and fair elections since 1990 -- including, most recently, Liberia. The statist economic policies that have been dominant since independence are seen to have failed, and most African countries appear to have made a real commitment to market-oriented development strategies.

With technical, policy, and financial support from the IMF and World Bank, many African countries have adopted structural adjustment programs aimed at freeing exchange rates, reducing the size and scope of governments, cutting budget deficits, and improving the incentives for private investment -- including by farmers, who often are among the poorest members of society. The region's aggregate growth rate has responded, rising from an average of 1.4% in 1991-94 to more than 4% at present. The Clinton Administration, working with a bipartisan coalition in Congress, is developing an Africa Initiative designed to encourage faster growth by supporting those countries willing to open their economies more aggressively to trade and investment. While the depth of the problems should not be underestimated, we are optimistic that many countries in the region are moving decisively in the right direction.

Question 2 for Under Secretary Lipton

What are your views on the effectiveness of the international financial institutions -- particularly the World Bank and the IMF. In what ways can these institutions be improved to work more effectively -- for example, in how they determine which projects to fund, the financial viability of those projects, and any positive and negative impacts those projects will have on local economies and the environment?

The International Financial Institutions have been, on balance, cost-effective tools for pursuing US goals of fostering global monetary stability, poverty reduction, the expansion of free markets and sustainable development. In addition, the United States has been an effective advocate for needed reforms in the institutions, which have demonstrated an increasing willingness and ability to improve the quality and responsiveness of their programs.

World Bank

Directing lending to countries who are committed to sound economic policies and the rule of law is critical. The World Bank has made significant progress in this area -- 84% of IDA lending now goes to countries rated average or above in terms of economic reform -- but more remains to be done. Since recent Bank studies have shown that development aid is usually only effective when proper policies are in place, we will continue to press for strict economic conditionality in Bank lending and for measures that curb corruption in borrowing countries. Another important factor in increasing lending effectiveness is increasing participation from those directly affected by World Bank projects. A major new Bank reform program, the Strategic Compact, will move more staff into the field where they can more easily consult with local communities, assess the effect of projects on the environment, and monitor project implementation. The U.S. Treasury supports the goals of the Compact and is working closely with World Bank President Wolfensohn to ensure that the reforms are properly implemented.

International Monetary Fund (IMF)

In its responses to recent currency crises in Mexico and Thailand, the IMF sought to contain the damaging effects of sudden systemic instability. Post-Mexico reforms have enhanced this capability through expanded surveillance efforts, faster response mechanisms and proposals for greater emergency resources. The new Emergency Financing Mechanism, which allows fast action, was used effectively in the Thai crisis, for example, although the crisis also revealed the need for even greater data disclosure to help prevent future imbalances. Through the adoption of governance guidelines and the example of several specific country programs, the IMF has made anti-corruption efforts an integral part of its operations by establishing a clear link between economic performance and good governance. While continued progress is necessary, the IMF has improved significantly the transparency of its work by permitting the voluntary disclosure of annual country reviews through the issuance of Press Information Notices (PINs).



ISBN 0-16-056572-3

