

THE WHITE HOUSE

WASHINGTON

January 10, 1983

MEMORANDUM FOR FRED F. FIELDING

FROM: JOHN G. ROBERTS *JGR*

SUBJECT: Enrolled Bill H.R. 5470 - Miscellaneous  
Amendments of the Internal Revenue Code and  
the Employee Retirement Income Security Act

Richard Darman has requested comments by close of business today on enrolled bill H.R. 5470. This bill would make miscellaneous amendments to the Internal Revenue Code and ERISA. The bill would clarify the law by providing that periodic personal injury payments are excludable from gross income, exclude from gross income "difficulty of care" payments to those caring from handicapped foster children, provide that Indian tribal governments may be treated as states for most tax purposes, and authorize the Department of Labor to certify which multiple employer trusts are covered by ERISA and which are not, thereby clarifying the application of state law to such trusts. Treasury objects to the exclusion of difficulty of care payments, because they are compensation (beyond expenses) and should be taxed as such, but does not recommend disapproval. I view treating Indian tribal governments as states as objectionable as a policy matter, but it is consistent with the equally objectionable (but well established) non-integrationist policy with respect to Indians. OMB, HHS, Interior, and Labor recommend approval; other affected agencies have no objection, except for the above-noted objection of Treasury.

I have reviewed the memorandum for the President from James Frey, Assistant Director of OMB for Legislative Reference, and the bill itself. I see no legal objections.

Attachment

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January 10, 1983

MEMORANDUM FOR RICHARD G. DARMAN  
ASSISTANT TO THE PRESIDENT

FROM: FRED F. FIELDING  
COUNSEL TO THE PRESIDENT

SUBJECT: Enrolled Bill H.R. 5470 - Miscellaneous  
Amendments of the Internal Revenue Code and  
the Employee Retirement Income Security Act

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

FFF:JGR:aw 1/10/83

cc: FFFielding  
JGRoberts  
Subj.  
Chron