

NLWJC - KAGAN

EMAILS RECEIVED

ARMS - BOX 012 - FOLDER -005

[06/13/1997]

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Bruce Reed to Elena Kagan re: Another Draft Manifest - Trip of the President to San Diego (1 page)	06/13/1997	P6/b(6)

COLLECTION:

Clinton Presidential Records
Automated Records Management System [Email]
OPD ([Kagan])
OA/Box Number: 250000

FOLDER TITLE:

[06/13/1997]

2009-1006-F

bm17

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

- P1 National Security Classified Information [(a)(1) of the PRA]
- P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
- P3 Release would violate a Federal statute [(a)(3) of the PRA]
- P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
- P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

- b(1) National security classified information [(b)(1) of the FOIA]
- b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
- b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
- b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
- b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
- b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Stuart M. Schear@EOP@LNGTWY@LNGTWY (Stuart M. Schear@EOP@LNGTWY@LNGTWY [W

CREATION DATE/TIME:13-JUN-1997 15:25:59.00

SUBJECT: WEEKEND TV FINAL

TO: Maria Echaveste@eop (Maria Echaveste@eop [WHO])
READ:UNKNOWN

TO: Deborah Falk@eop (Deborah Falk@eop [WHO])
READ:UNKNOWN

TO: Bruce N. Reed@EOP (Bruce N. Reed@EOP [OPD])
READ:UNKNOWN

TO: Cathy R. Mays@EOP (Cathy R. Mays@EOP [OPD])
READ:UNKNOWN

TO: Michele Jolin@EOP (Michele Jolin@EOP [CEA])
READ:UNKNOWN

TO: david t. johnson@eop (david t. johnson@eop [NSC])
READ:UNKNOWN

TO: Marjorie Tarmey@eop (Marjorie Tarmey@eop [WHO])
READ:UNKNOWN

TO: Brian D. Smith@eop (Brian D. Smith@eop [WHO])
READ:UNKNOWN

TO: Melissa Green@eop (Melissa Green@eop [OPD])
READ:UNKNOWN

TO: Lorraine L. Wytkind@eop (Lorraine L. Wytkind@eop [WHO])
READ:UNKNOWN

TO: Elena Kagan@eop (Elena Kagan@eop [OPD])
READ:UNKNOWN

TO: Christopher C. Jennings@eop (Christopher C. Jennings@eop [OPD])
READ:UNKNOWN

TO: Jason S. Goldberg@EOP (Jason S. Goldberg@EOP [WHO])
READ:UNKNOWN

TEXT:
Message Creation Date was at 13-JUN-1997 15:16:00

===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:
The following attachments were included with this message:

TYPE : FILE
NAME : 061397F.WPD

===== END ATTACHMENT 1 =====

JUNE 13, 1997

MEMORANDUM TO MIKE MCCURRY, ANN LEWIS AND DON BAER
FROM STUART SCHEAR
SUBJECT WEEKEND TV FINAL REPORT
COMMENT CHRIS EDLEY, JOHN HOPE FRANKLIN & LINDA CHAVEZ-
THOMPSON ON TV

FRIDAY JUNE 13

WASHINGTON WEEK IN REVIEW

Topic Race
Guest Mara Liasson NPR, David Broder, Washington Post,
Sam Fullwood, LA Times

Topic European Politics
Guest Tom Friedman, NYT

Roundtable Weld vs. Helms

SATURDAY JUNE 14

EVANS & NOVAK (CNN)

Topic Race
Guest Rep. JC Watts

INSIDE POLITICS WEEKEND (CNN)

Topic Race
Guest Jesse Jackson Jr.
Guest Ward Connerly

SUNDAY JUNE 15

SUNDAY MORNING (CBS) @ 9 AM

Topic Race
Guest President Clinton
Comment To be taped on Saturday in California

FOX NEWS SUNDAY (FOX)

Topic House Politics
Guest Rep. Dick Armev

Topic Budget
Guest Rep. Bill Archer & Rep. Charles Rangel

Topic Race
Guest Jack Kemp and Chris Edley

Roundtable Brit Hume, Juan Williams & Catherine Crier

FACE THE NATION (CBS)

Topic Budget & Taxes
Topic Rep. Kasich

Topic Race
Guest John Lewis, Lanny Guinier, Bill Bennett

Comment Schieffer and Gloria Borger

MEET (NBC)

Topic Race & Affirmative Action
Guest Ward Connerly & Rev. Jesse Jackson Sr.

Topic Watergate Retrospective
Guest Ben Bradlee, John Dean, Howard Baker

Comment Gwen Ifill joins Russert for race segment.

THIS WEEK (ABC)

Topic Sen. Lott
Guest Budget & Taxes

Topic Race
Guest Rep. Jesse Jackson Jr. & Ralph Reed

Roundtable Roberts, Donaldson, Will, Kristol, Stephanopoulos
LATE EDITION (CNN)

Topic Race
Guest President Clinton
Comment To be taped on Saturday in California

Topic Race
Guest Bill Bennett, Jesse Jackson, Linda Chavez-Thompson

Comment Mara Liasson, Steve Roberts, Tony Blankley

BOTH SIDES WITH JESSE JACKSON (CNN)@ 5 PM

Topic Race
Guest John Hope Franklin, Advisory Board Chair

MONDAY, JUNE 16

THE TODAY SHOW (NBC)

Topic Race
Guest President Clinton
Comment Interview to be taped on Saturday in California

Topic Race
Guest President Clinton
Comment Interview to be taped on Saturday in California

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Diana Fortuna (CN=Diana Fortuna/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:13-JUN-1997 17:25:48.00

SUBJECT: Response to NGA - Contingency Fund MOE

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

CC: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

I hate to do this to you, but could you glance at these drafts from presidential letters, in response to letters to the Pres. from NGA and Gov. Underwood complaining about our bifurcation/MOE positions. We have worked with the letters people to get the draft as good as it is, but it seems prudent to get your reaction.

----- Forwarded by Diana Fortuna/OPD/EOP on 06/13/97
05:24 PM -----

Diane Ikemiyashiro
06/13/97 01:00:29 PM

Record Type: Record

To: Emily Bromberg/WHO/EOP, Keith J. Fontenot/OMB/EOP
cc: Diana Fortuna/OPD/EOP, Cynthia A. Rice/OPD/EOP
Subject: NGA - Contingency Fund MOE

Emily and Keith --

The following drafts are POTUS responses to letters from the NGA regarding TANF and MOE and from Gov. Cecil Underwood, WV, regarding TANF. You will notice that the drafts are based on the same language. FYI, I will fax to you the incoming letters.

(Emily -- these are drafts 3 and 4 of the 4 drafts that I mentioned to you. If the drafts are okay, I suggest that they be prepared for autopen, not BC SIGs. What do you think? Does Fred DuVal make that decision or you?)

3.) NGA --

Thank you for your letter regarding the Temporary Assistance for Needy Families Program requirements on separate state maintenance of effort welfare programs. I appreciate knowing of your concerns.

The enactment of the welfare reform law was the beginning -- not the end -- of welfare reform, and I am pleased of the progress we have made. We all have a responsibility to cooperate to make this law work, and we need to continue our bipartisan effort to help ensure that TANF clearly and effectively accomplishes our goals.

Because of our concern that welfare reform be about work, my

Administration will remain committed to working with the States and Congress to help ensure that each state's overall work effort meets TANF's work participation requirements. As you know, I've always been a strong supporter of state maintenance of effort welfare programs, and we will work with the States and Congress to develop legislation, if necessary, to ensure that state flexibility in maintenance of effort programs does not result in costs to the Federal government due to the potential loss of child support collections. I am also concerned that proposed changes to the Contingency Fund Maintenance of Effort requirements may undermine work requirements and state financial commitments to work programs.

4.) Gov. Underwood --

Thank you for your letter regarding the Temporary Assistance for Needy Families Program. I appreciate knowing of your concerns.

The enactment of the welfare reform law was the beginning -- not the end -- of welfare reform, and I am pleased of the progress we have made. We all have a responsibility to make this law work, and we need to continue our bipartisan effort to help ensure that TANF clearly and effectively accomplishes our goals.

Because of our concern that welfare reform be about work, my Administration remains committed to working with the States and Congress to help ensure that each state's overall work effort meets TANF's work participation requirements. In addition, we will work with the States and Congress to develop legislation, if necessary, to ensure that state flexibility does not result in the loss of federal child support collections.

I will keep your thoughts in mind as we address the fair and effective implementation of the welfare reform law.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:13-JUN-1997 12:18:29.00

SUBJECT: Haskins

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

I had a good conversation with Ron about WTW. He says he's fine with this program as long as we're in the WH, but Shaw may send (but not publicize) a letter to Alexis and/or me making clear that the intent here is to promote work, not CETA, and that we're not trying to snooker them into a program that pays people \$8 an hour to rake leaves. Since that probably is the intent of most of our allies, a quiet colloquy to that effect isn't the end of the world.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Andrew J. Mayock (CN=Andrew J. Mayock/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:13-JUN-1997 14:51:56.00

SUBJECT: More feedback

TO: David S. Beaubaire (CN=David S. Beaubaire/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Emil E. Parker (CN=Emil E. Parker/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Katherine Hubbard (CN=Katherine Hubbard/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: James T. Edmonds (CN=James T. Edmonds/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Lynn G. Cutler (CN=Lynn G. Cutler/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Richard Socarides (CN=Richard Socarides/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Ann F. Walker (CN=Ann F. Walker/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Ellen M. Lovell (CN=Ellen M. Lovell/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Thurgood Marshall Jr. (CN=Thurgood Marshall Jr./O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

TO: Robert N. Weiner (CN=Robert N. Weiner/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Richard L. Hayes (CN=Richard L. Hayes/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Bob J. Nash (CN=Bob J. Nash/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Maria Echaveste (CN=Maria Echaveste/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Ananias Blocker III (CN=Ananias Blocker III/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Joseph P. Lockhart (CN=Joseph P. Lockhart/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Carolyn Curiel (CN=Carolyn Curiel/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Beverly J. Barnes (CN=Beverly J. Barnes/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Doris O. Matsui (CN=Doris O. Matsui/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Cheryl D. Mills (CN=Cheryl D. Mills/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Ann F. Lewis (CN=Ann F. Lewis/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Jose Cerda III (CN=Jose Cerda III/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Minyon Moore (CN=Minyon Moore/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Tracey E. Thornton (CN=Tracey E. Thornton/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Janet Murguia (CN=Janet Murguia/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Dawn M. Chirwa (CN=Dawn M. Chirwa/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Susan M. Liss (CN=Susan M. Liss/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

TO: Robert B. Johnson (CN=Robert B. Johnson/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

My apologies to Lynn - Please note the input she received (and let me know if anyone else's information is not in the summary):

Cutler: The feed back from the mayors was terrific and I also had a meeting with forty urban county officials this afternoon. We gave them the paper and talked about the speech and initiative. There was a real excitement in the room. We had county people from Dade (Miami), Fulton (Atlanta), Cook (Chicago), King (Seattle), Hennepin (minneapolis) and all the others Sylvia met in the lobby.

The only negative feedback I've had was from Indian country--extreme disappointment that there was not a Native American on the Advisory Board. I said all the things I was supposed to--just hope the speech has a good piece on Indians in it.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:13-JUN-1997 14:38:35.00

SUBJECT: Immigration event

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Diana Fortuna (CN=Diana Fortuna/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Christa Robinson (CN=Christa Robinson/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

Emily Bromberg tells me sh spoke to Larry Haas, who says the VP is very eager to do an immigrants event. They've set aside some time for Thursday. He wants it to be an event with members of Congress, advocates, and real people -- not including mayors. Emily agrees, because she says they'll just complain that we haven't gotten enough and would probably support Shaw's grandfathering provision over the budget agreement.

Bruce -- Emily wants to know if you disagree, and think mayors SHOULD be there.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:13-JUN-1997 09:40:14.00

SUBJECT: I spoke to some Finance Cmte Dems staff last night

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

CC: Diana Fortuna (CN=Diana Fortuna/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

Markup for health and welfare will be Tuesday.

Amendments must be filed by noon Monday.

Privatization: Dem Committee staff say they'd like materials on privatization to help them argue against it. This was contentiously debated yesterday in the Senators meeting, with of course Phil Gramm arguing for and Kent Conrad and Bob Kerry raising questions. I understand Conrad may have agreed to take the lead to fight this. I have a call into his staffer. I assume I should try to be as helpful as possible? I was told that if we are really, really going to fight this, we should have some White House calls go directly to Senators, since most welfare staff aren't seeing much of their Senators lately with the tax and health feeding frenzy. Should Hilley make some calls?

FLSA: It was not on the 2 pager the majority handed out and Dem staff have confirmed that it will not be in the mark. Maybe they've decided they don't want a debate in the Senate and plan to accept the House version in conference. What does this mean for the joint Reed/Sperling letter, which Diana is redrafting?

Welfare to work: Dem staff is trying to verify whether there is a substate formula which sends funds to high poverty/high unemployment areas. If there is not, they will likely have an amendment to do so.

RECORD TYPE: PRESIDENTIAL (EXTERNAL MAIL)

CREATOR: Alice E. Shuffield@EOP@LNGTWY@EOPMRX

CREATION DATE/TIME:13-JUN-1997 01:57:00.00

SUBJECT: OMB Legislative Report -- June 12, 1997

TO: RAINES_F (RAINES_F@A1@CD) (OMB)
READ:NOT READ

TO: ADAMS_G (ADAMS_G@A1@CD) (OMB)
READ:NOT READ

TO: HAAS_L (HAAS_L@A1@CD) (OMB)
READ:13-JUN-1997 14:12:36.52

TO: SCHWARTZ_K (SCHWARTZ_K@A1@CD) (OMB)
READ:NOT READ

TO: FOLEY_M (FOLEY_M@A1@CD) (WHO)
READ:13-JUN-1997 08:42:30.06

TO: PETERSON_RK (PETERSON_RK@A1@CD) (OMB)
READ:NOT READ

TO: PANERALI_K (PANERALI_K@A1@CD) (OPD)
READ:NOT READ

TO: HOLSTEIN_E (HOLSTEIN_E@A1@CD)
READ:NOT READ

TO: GIBBONS_M (GIBBONS_M@A1@CD) (OMB)
READ:NOT READ

TO: JONES_RE (JONES_RE@A1@CD) (OMB)
READ:NOT READ

TO: BROWN_JA (BROWN_JA@A1@CD) (OMB)
READ:NOT READ

TO: COOK_MY (COOK_MY@A1@CD) (OMB)
READ:NOT READ

TO: WEINSTEIN_D (WEINSTEIN_D@A1@CD)
READ:NOT READ

TO: WEINSTEIN_P (WEINSTEIN_P@A1@CD) (OPD)
READ:NOT READ

TO: PALMIERI_J (PALMIERI_J@A1@CD) (WHO)
READ:13-JUN-1997 10:54:39.93

TO: WHITE_B (WHITE_B@A1@CD) (OMB)
READ:NOT READ

TO: MORAN_K (MORAN_K@A1@CD) (WHO)
READ:NOT READ

TO: WALKER_C (WALKER_C@A1@CD) (WHO)

READ:NOT READ

TO: WALKER_A
READ:NOT READ

(WALKER_A@A1@CD) (WHO)

TO: GREEN_M
READ:NOT READ

(GREEN_M@A1@CD) (OMB)

TO: SILVERMAN_S
READ:NOT READ

(SILVERMAN_S@A1@CD) (WHO)

TO: REED_B
READ:NOT READ

(REED_B@A1@CD) (OPD)

TO: DONNELLY_RE
READ:NOT READ

(DONNELLY_RE@A1@CD) (WHO)

TO: MCKIERNAN_K
READ:NOT READ

(MCKIERNAN_K@A1@CD)

TO: SCHWARTZ_N
READ:NOT READ

(SCHWARTZ_N@A1@CD) (OMB)

TO: SPERLING_G
READ:NOT READ

(SPERLING_G@A1@CD) (OPD)

TO: LEVIN_P
READ:NOT READ

(LEVIN_P@A1@CD)

TO: OLIVER_A
READ:NOT READ

(OLIVER_A@A1@CD) (OMB)

TO: WARREN_M
READ:NOT READ

(WARREN_M@A1@CD)

TO: ABRAMSON_K
READ:NOT READ

(ABRAMSON_K@A1@CD)

TO: DENTON_M
READ:NOT READ

(DENTON_M@A1@CD) (CEQ)

TO: WARREN_W
READ:NOT READ

(WARREN_W@A1@CD) (CEQ)

TO: GOLDBERG_JS
READ:NOT READ

(GOLDBERG_JS@A1@CD) (WHO)

TO: WILLIAMS_MA
READ:NOT READ

(WILLIAMS_MA@A1@CD) (WHO)

TO: HOGAN_L
READ:NOT READ

(HOGAN_L@A1@CD) (OPD)

TO: SMITH_BD
READ:NOT READ

(SMITH_BD@A1@CD) (OMB)

TO: SMITH_P
READ:NOT READ

(SMITH_P@A1@CD) (OMB)

TO: Jacob J. Lew

(Jacob J. Lew@EOP@LNGTWY@EOPMRX)

READ:NOT READ

TO: John A. Koskinen (John A. Koskinen@EOP@LNKTWY@EOPMRX)
READ:NOT READ

TO: Charles E. Kieffer (Charles E. Kieffer@EOP@LNKTWY@EOPMRX)
READ:NOT READ

TO: Rebecca R. Culberson (Rebecca R. Culberson@EOP@LNKTWY@EOPMRX)
READ:NOT READ

TO: Robert G. Damus (Robert G. Damus@EOP@LNKTWY@EOPMRX)
READ:NOT READ

TO: Barry B. Anderson (Barry B. Anderson@EOP@LNKTWY@EOPMRX)
READ:NOT READ

TO: T J. Glauthier (T J. Glauthier@EOP@LNKTWY@EOPMRX)
READ:NOT READ

TO: Joshua Gotbaum (Joshua Gotbaum@EOP@LNKTWY@EOPMRX)
READ:NOT READ

TO: Kenneth S. Apfel (Kenneth S. Apfel@EOP@LNKTWY@EOPMRX)
READ:NOT READ

TO: Nancy A. Min (Nancy A. Min@EOP@LNKTWY@EOPMRX)
READ:NOT READ

TO: Sally Katzen (Sally Katzen@EOP@LNKTWY@EOPMRX)
READ:NOT READ

TO: Joseph J. Minarik (Joseph J. Minarik@EOP@LNKTWY@EOPMRX)
READ:NOT READ

TO: William A. Halter (William A. Halter@EOP@LNKTWY@EOPMRX)
READ:NOT READ

TO: Jill M. Blickstein (Jill M. Blickstein@EOP@LNKTWY@EOPMRX)
READ:NOT READ

TO: Janet L. Graves (Janet L. Graves@EOP@LNKTWY@EOPMRX)
READ:NOT READ

TO: Alan B. Rhinesmith (Alan B. Rhinesmith@EOP@LNKTWY@EOPMRX)
READ:NOT READ

TO: Kathleen Peroff (Kathleen Peroff@EOP@LNKTWY@EOPMRX)
READ:NOT READ

TO: Ronald M. Cogswell (Ronald M. Cogswell@EOP@LNKTWY@EOPMRX)
READ:NOT READ

TO: Barry T. Clendenin (Barry T. Clendenin@EOP@LNKTWY@EOPMRX)
READ:NOT READ

TO: Robert B. Rideout (Robert B. Rideout@EOP@LNKTWY@EOPMRX)
READ:NOT READ

TO: Philip A. DuSault (Philip A. DuSault@EOP@LNKTWY@EOPMRX)

READ:NOT READ

TO: Richard P. Emery Jr.
READ:NOT READ

(Richard P. Emery Jr.@EOP@LN GTWY@EOPMRX)

TO: Robert E. Barker
READ:NOT READ

(Robert E. Barker@EOP@LN GTWY@EOPMRX)

TO: Susanne D. Lind
READ:NOT READ

(Susanne D. Lind@EOP@LN GTWY@EOPMRX)

TO: Ellen J. Balis
READ:NOT READ

(Ellen J. Balis@EOP@LN GTWY@EOPMRX)

TO: Alicia K. Kolaian
READ:NOT READ

(Alicia K. Kolaian@EOP@LN GTWY@EOPMRX)

TO: Bruce D. Long
READ:NOT READ

(Bruce D. Long@EOP@LN GTWY@EOPMRX)

TO: Lisa M. Kountoupes
READ:NOT READ

(Lisa M. Kountoupes@EOP@LN GTWY@EOPMRX)

TO: Charles Konigsberg
READ:NOT READ

(Charles Konigsberg@EOP@LN GTWY@EOPMRX)

TO: Bruce W. McConnell
READ:NOT READ

(Bruce W. McConnell@EOP@LN GTWY@EOPMRX)

TO: Bernard H. Martin
READ:NOT READ

(Bernard H. Martin@EOP@LN GTWY@EOPMRX)

TO: Michael A. Fitzpatrick
READ:NOT READ

(Michael A. Fitzpatrick@EOP@LN GTWY@EOPMRX)

TO: Daniel M. Tangherlini
READ:NOT READ

(Daniel M. Tangherlini@EOP@LN GTWY@EOPMRX)

TO: Elisa Millsap
READ:NOT READ

(Elisa Millsap@EOP@LN GTWY@EOPMRX)

TO: Ann M. Cattalini
READ:NOT READ

(Ann M. Cattalini@EOP@LN GTWY@EOPMRX)

TO: James C. Murr
READ:NOT READ

(James C. Murr@EOP@LN GTWY@EOPMRX)

TO: James J. Jukes
READ:NOT READ

(James J. Jukes@EOP@LN GTWY@EOPMRX)

TO: Janet R. Forsgren
READ:NOT READ

(Janet R. Forsgren@EOP@LN GTWY@EOPMRX)

TO: Steven J. Kelman
READ:NOT READ

(Steven J. Kelman@EOP@LN GTWY@EOPMRX)

TO: Ingrid M. Schroeder
READ:NOT READ

(Ingrid M. Schroeder@EOP@LN GTWY@EOPMRX)

TO: Jeffrey A. Weinberg

(Jeffrey A. Weinberg@EOP@LN GTWY@EOPMRX)

READ:NOT READ

TO: Constance J. Bowers (Constance J. Bowers@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Anna M. Briatico (Anna M. Briatico@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Robert J. Pellicci (Robert J. Pellicci@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Alison C. Perkins (Alison C. Perkins@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: E. Holly Fitter (E. Holly Fitter@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Annette E. Rooney (Annette E. Rooney@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Stacey L. Rubin (Stacey L. Rubin@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Philip R. Dame (Philip R. Dame@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Phebe N. Vickers (Phebe N. Vickers@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Barbara Chow (Barbara Chow@EOP@LNWTWY@EOPMRX)
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TO: Todd Stern (Todd Stern@EOP@LNWTWY@EOPMRX)
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TO: Sylvia M. Mathews (Sylvia M. Mathews@EOP@LNWTWY@EOPMRX)
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TO: John Podesta (John Podesta@EOP@LNWTWY@EOPMRX)
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TO: Nancy L. Brandel (Nancy L. Brandel@EOP@LNWTWY@EOPMRX)
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TO: Elizabeth M. Toohy (Elizabeth M. Toohy@EOP@LNWTWY@EOPMRX)
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TO: Douglas B. Sosnik (Douglas B. Sosnik@EOP@LNWTWY@EOPMRX)
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TO: Shelley N. Fidler (Shelley N. Fidler@EOP@LNWTWY@EOPMRX)
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TO: Janet Himler (Janet Himler@EOP@LNWTWY@EOPMRX)
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TO: Daniel C. Tate (Daniel C. Tate@EOP@LNWTWY@EOPMRX)
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TO: Phillip Caplan (Phillip Caplan@EOP@LNWTWY@EOPMRX)

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TO: Anita Chellaraj (Anita Chellaraj@EOP@LN GTWY@EOPMRX)
READ:NOT READ

TO: Nicholas B. Kirkhorn (Nicholas B. Kirkhorn@EOP@LN GTWY@EOPMRX)
READ:NOT READ

TO: Lucia A. Wyman (Lucia A. Wyman@EOP@LN GTWY@EOPMRX)
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TO: Alphonse J. Maldon (Alphonse J. Maldon@EOP@LN GTWY@EOPMRX)
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TO: Robert J. Nassif (Robert J. Nassif@EOP@LN GTWY@EOPMRX)
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TO: Melinda D. Haskins (Melinda D. Haskins@EOP@LN GTWY@EOPMRX)
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TO: Robert S. Fairweather (Robert S. Fairweather@EOP@LN GTWY@EOPMRX)
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TO: Janet E. Irwin (Janet E. Irwin@EOP@LN GTWY@EOPMRX)
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TO: James B. Kazel (James B. Kazel@EOP@LN GTWY@EOPMRX)
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TO: John A. Gribben (John A. Gribben@EOP@LN GTWY@EOPMRX)
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TO: April K. Mellody (April K. Mellody@EOP@LN GTWY@EOPMRX)
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TO: Mary E. Glynn (Mary E. Glynn@EOP@LN GTWY@EOPMRX)
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TO: Mark A. Weatherly (Mark A. Weatherly@EOP@LN GTWY@EOPMRX)
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TO: Ananias Blocker III (Ananias Blocker III@EOP@LN GTWY@EOPMRX)
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TO: Richard A. Mertens (Richard A. Mertens@EOP@LN GTWY@EOPMRX)
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TO: Ben A. Freeland (Ben A. Freeland@EOP@LN GTWY@EOPMRX)
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TO: Peter G. Jacoby (Peter G. Jacoby@EOP@LN GTWY@EOPMRX)
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TO: Kate P. Donovan (Kate P. Donovan@EOP@LN GTWY@EOPMRX)
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TO: Angus S. King (Angus S. King@EOP@LN GTWY@EOPMRX)
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TO: Linda Lance (Linda Lance@EOP@LN GTWY@EOPMRX)

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TO: Justine F. Rodriguez (Justine F. Rodriguez@EOP@LN GTWY@EOPMRX)
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TO: Julie E. Mason (Julie E. Mason@EOP@LN GTWY@EOPMRX)
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TO: Mary Jo Siclari (Mary Jo Siclari@EOP@LN GTWY@EOPMRX)
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TO: Barry J. Toiv (Barry J. Toiv@EOP@LN GTWY@EOPMRX)
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TO: Toni S. Hustead (Toni S. Hustead@EOP@LN GTWY@EOPMRX)
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TO: Christopher R. Ulrich (Christopher R. Ulrich@OVP@LN GTWY@EOPMRX)
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TO: Russell W. Horwitz (Russell W. Horwitz@EOP@LN GTWY@EOPMRX)
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TO: Elena Kagan (Elena Kagan@EOP@LN GTWY@EOPMRX)
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TO: Eugene M. Ebner (Eugene M. Ebner@EOP@LN GTWY@EOPMRX)
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TO: Steven D. Aitken (Steven D. Aitken@EOP@LN GTWY@EOPMRX)
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TO: Robert S. Dotson (Robert S. Dotson@EOP@LN GTWY@EOPMRX)
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TO: Joseph M. Wire (Joseph M. Wire@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Arecia A. Grayton (Arecia A. Grayton@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TEXT:

Message Creation Date was at 13-JUN-1997 01:52:00

TO: DIRECTOR FRANK RAINES
DEPUTY DIRECTOR JACK LEW
DEPUTY DIRECTOR JOHN KOSKINEN
EXECUTIVE ASSOCIATE DIRECTOR JOSH GOTBAUM

FROM: OMB LEGISLATIVE AFFAIRS

DATE: JUNE 12, 1997

SUBJECT: LEGISLATIVE REPORT

SUPPLEMENTAL

The House today passed the Disaster Supplemental by a vote of 348 to 74, and the Senate 78 to 21, clearing the measure for the President.

The differences between the new bill and the one that had been vetoed on Monday follow:

- o the CR is out;
- o Stevens rights of way language is out (RS 2477);
- o acceptable Census language is included (no restriction on sampling but acceptable report requirements within 30 days);
- o no other changes were made to funding levels or other objectionable provisions such as DUAP rescission, Ounce of Prevention Council rescission, or the new law enforcement commission.

RECONCILIATION

Committee action today:

- o The House Ways and Means Full Committee completed their markup of the tax provisions in the Reconciliation bill, and reported the Chairman's mark, as amended by a vote of 22 to 16. The Democrat Substitute was defeated by a vote of 22 to 15.
- o The House Agriculture Committee reported a bill by voice vote, which staff stated that CBO says scores at \$1.5 billion, the amount specified in the Agreement
- o The House Education and the Workforce Committee reported out a bill for welfare to work, MEWA, and student loans and Smith-Hughes (unlike the Senate, which did not include Smith-Hughes)
- o The House and Senate Veterans Affairs Committees reported a mark that is consistent with the President's proposals.
- o The House Commerce Committee reported its provisions on Medicare, Medicaid, and Children's Health

CONGRESS TODAY (6/12):

SENATE

Passed (78-21) Disaster Supplemental

The Senate also passed the following items by voice vote:

- S. 419 - Birth Defects Prevention Act of 1997
- H.R. 1306 - To amend the Federal Deposit Insurance Act
- S. 210 - To amend the Organic Act of Guam

HOUSE

Passed (348-74, 1 voting present) the Disaster / Bosnia Supplemental

Passed (310-114) H.J.Res. 54 - Proposing an Amendment to the U.S. Constitution Authorizing the Congress to Prohibit the Physical Desecration of the U.S. Flag (Closed rule - 2 hour debate)

[SAP sent 6/11: "The Administration believes that efforts to limit the First Amendment to make a narrow exception for flag desecration are misguided."]

CONGRESS TOMORROW (6/13):

The House and the Senate will be out of session

CONGRESS -- LONG TERM SCHEDULE

SENATE

Monday, June 16

The Senate will convene at 11am for morning business until 12:30pm. They will then take up the State Authorization Bill, but any votes that are ordered will be stacked to occur on Tuesday.

[SAP under development]

Tuesday, June 17 and the balance of the week:

Hold stacked votes on the State Authorization Bill, ordered on Monday

[SAP under development]

Consider the Defense Authorization bill, when available

[SAP under development]

Consider H.R. 867 - Adoption Promotion Act of 1997 (possible)

[SAP under discussion]

Other items the Senate may consider prior to the July 4th Recess:

- o National Missile Defense bill
 - [SAP pending]
- o FDA Reform Bill
- o Juvenile Justice Legislation
- o Homeowners, private mortgage insurance
- o Rural zones legislation
- o Budget Reconciliation Bills

HOUSE

Monday, June 16

Meet at 12 noon for a pro forma session

Tuesday, June 17

Convene at 12:30 pm for morning session, and 2:00pm for legislative business.
(No recorded votes before 5pm)

Private Calendar:

S. 768 - A Bill for the Relief of Michel Christopher Meili, Giuseppina Meili, Mirjam Naomi Meili, and Davide Meili

Suspensions:

- H.J.Res 56 -- Celebrating the End of Slavery in the US
- H.R. 1057 - Designating the Andrew Jacobs, Jr. Post Office Building
- H.R. 1058 - Designating the John T. Myers Post Office Building
- H.R. 985 - Eagles Nest Wilderness Expansion

Wednesday, June 18, and the balance of the week

On Wednesday and Thursday, the House will meet at 10am, and on Friday the House will meet at 9am for legislative business.

Consider H.R. 437 - National Sea Grant College Program Reauthorization Act of 1997 (Open Rule)

[SAP sent 6/11: Administration supports but will seek amendments]

Consider H.R. 1119 - National Defense Authorization Act for Fiscal Years 1998 and 1999 (Subject to a rule)

The House also expects to take up the following items prior to the July 4th Recess:

- o Partial-Birth Abortion Bill (the Senate-passed bill)
- o Budget Reconciliation Bills
- o Legislation regarding China's MFN status (possible)

DRAFT LETTER TO HOUSE RULES COMMITTEE AND SENATE FINANCE COMMITTEE

We are writing to urge you not to include the provisions on the minimum wage and welfare work requirements reported out of the House Ways and Means and Education and the Workforce Committees in the reconciliation bill.

Because it demands responsibility and requires work, the welfare law that the President signed is the centerpiece of our efforts to transform welfare from a way of life to a second chance. The Administration's strong commitment to move people from welfare to work has already produced tremendous success: the welfare rolls have plummeted by over 20 percent since the President took office, with 2.9 million fewer people on welfare, largely because of our strong economy and the welfare waivers the Administration granted to 43 states.

Now the welfare law give us an unprecedented opportunity to work together to build on this success. We are pleased that we have maintained a good working relationship with the Congress as we have implemented the law, and that we have both adhered to an understanding that changes to the law must be considered on a bipartisan basis.

In order to succeed, however, our strategy must also reflect the reality that citizens confront when they try to leave the welfare rolls for work. Under the old system, welfare too often paid better than work. Turning this around has required us to move on many fronts. We insisted that the welfare law include an additional \$4 billion for child care. We worked to increase child support collections, leading to dramatic growth of 50%. We expanded the earned income tax credit to help 40 million Americans. And we increased the minimum wage. Now we are working to make transportation more available and to expand health care coverage for the children of low-income working parents. Since the private sector must provide the bulk of the jobs for those leaving welfare, we have urged the corporate community to do its part, and a new Welfare to Work Partnership is now leading the business community's effort to extend job opportunities to those seeking to remake their lives. All of this is designed to ensure that those on welfare have the same incentive to work as the rest of our society -- because work is rewarded.

Now we face the minimum wage question. To be consistent with our goals in welfare reform, the Administration believes strongly that all those who can work should work, and that those who work should earn the minimum wage. By contrast, the House Ways and Means and Education and the Workforce Committees proposals would undermine our goals by effectively creating a subminimum wage for workfare participants. In addition, they would weaken the welfare law's work requirements -- requirements that were the subject of arduous negotiations and ultimately bipartisan agreement. It is not appropriate to propose these changes in the context of a reconciliation bill to enact the bipartisan agreement to balance the budget.

Finally, it is important to note that neither Congress nor the President ever envisioned workfare as the primary tool to move people from welfare to work. While workfare has a limited, transitional role to play in many states, private sector jobs are the only way to ensure that those on welfare become truly independent. We are confident that states that are serious about welfare

reform will be able to meet and exceed the work rates in the law, particularly if they emphasize private sector jobs where of course the minimum wage has always been a given.

We urge you to reject these proposals as we work together to create a fair and enduring system that requires and rewards work.

(FYI: I've asked for but don't yet have old NEC materials on why minimum wage is great)

June 13, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

RE: DPC Weekly Report

1. **Charter Schools:** The Pennsylvania legislature passed a charter school law last week. We have not seen the final bill, but from what we know now, it appears to be generally consistent with the principals underlying our charter schools program. Several press accounts suggest that one factor featured in the debate over final passage is the fact that Pennsylvania would become eligible for several million dollars in federal charter schools funds. The bill passed with bipartisan support; an overwhelming majority of Republicans as well as a slim majority of Democrats, including a number of minority legislators from Philadelphia.

The bill will be signed into law next week. We are checking to see if it will be possible for you to mark the occasion by releasing a Charter Schools Guide from the Education Department, and highlighting the Department's newly created Charter Schools Web Site.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Michael Cohen (CN=Michael Cohen/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:13-JUN-1997 19:07:53.00

SUBJECT: Weekly report

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

CC: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

Charter Schools: The Pennsylvania legislature passed a charter school law last week. We have not seen the final bill, but from what what we know now, it appears to be generally consistent with the principals underlying our charter schools program. Several press accounts suggest that one factor featured in the debate over final passage is the fact that Pennsylvania would become eligible for several million dollars in federal charter schools funds. The bill passed with bipartisan support; an overwhelming majority of Republicans as well as a slim majority of Democrats, including a number of minority legislators from Philadelphia.

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RECORD TYPE: PRESIDENTIAL (EXTERNAL MAIL)

CREATOR: Alice E. Shuffield@EOP@LNGTWY@EOPMRX

CREATION DATE/TIME:13-JUN-1997 20:11:00.00

SUBJECT: OMB Legislative Report -- June 13, 1997

TO: RAINES_F (RAINES_F@A1@CD) (OMB)
READ:NOT READ

TO: ADAMS_G (ADAMS_G@A1@CD) (OMB)
READ:NOT READ

TO: HAAS_L (HAAS_L@A1@CD) (OMB)
READ:15-JUN-1997 14:58:29.05

TO: SCHWARTZ_K (SCHWARTZ_K@A1@CD) (OMB)
READ:NOT READ

TO: FOLEY_M (FOLEY_M@A1@CD) (WHO)
READ:16-JUN-1997 09:02:28.81

TO: PETERSON_RK (PETERSON_RK@A1@CD) (OMB)
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TO: PANERALI_K (PANERALI_K@A1@CD) (OPD)
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TO: HOLSTEIN_E (HOLSTEIN_E@A1@CD)
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TO: LEVIN_P (LEVIN_P@A1@CD)
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TO: OLIVER_A (OLIVER_A@A1@CD) (OMB)
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TO: ABRAMSON_K (ABRAMSON_K@A1@CD)
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TO: DENTON_M (DENTON_M@A1@CD) (CEQ)
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TO: SMITH_BD (SMITH_BD@A1@CD) (OMB)
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TO: Janet R. Forsgren (Janet R. Forsgren@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Steven J. Kelman (Steven J. Kelman@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Ingrid M. Schroeder (Ingrid M. Schroeder@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Jeffrey A. Weinberg (Jeffrey A. Weinberg@EOP@LNGTWY@EOPMRX)

READ:NOT READ

TO: Constance J. Bowers (Constance J. Bowers@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Anna M. Briatico (Anna M. Briatico@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Robert J. Pellicci (Robert J. Pellicci@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Alison C. Perkins (Alison C. Perkins@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: E. Holly Fitter (E. Holly Fitter@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Annette E. Rooney (Annette E. Rooney@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Stacey L. Rubin (Stacey L. Rubin@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Philip R. Dame (Philip R. Dame@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Phebe N. Vickers (Phebe N. Vickers@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Barbara Chow (Barbara Chow@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Todd Stern (Todd Stern@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Sylvia M. Mathews (Sylvia M. Mathews@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: John Podesta (John Podesta@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Nancy L. Brandel (Nancy L. Brandel@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Elizabeth M. Toohy (Elizabeth M. Toohy@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Douglas B. Sosnik (Douglas B. Sosnik@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Shelley N. Fidler (Shelley N. Fidler@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Janet Himler (Janet Himler@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Daniel C. Tate (Daniel C. Tate@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Phillip Caplan (Phillip Caplan@EOP@LNWTWY@EOPMRX)

READ:NOT READ

TO: Anita Chellaraj (Anita Chellaraj@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Nicholas B. Kirkhorn (Nicholas B. Kirkhorn@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Lucia A. Wyman (Lucia A. Wyman@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Alphonse J. Maldon (Alphonse J. Maldon@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Robert J. Nassif (Robert J. Nassif@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Melinda D. Haskins (Melinda D. Haskins@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Robert S. Fairweather (Robert S. Fairweather@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Janet E. Irwin (Janet E. Irwin@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: James B. Kazel (James B. Kazel@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: John A. Gribben (John A. Gribben@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: April K. Mellody (April K. Mellody@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Mary E. Glynn (Mary E. Glynn@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Mark A. Weatherly (Mark A. Weatherly@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Ananias Blocker III (Ananias Blocker III@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Richard A. Mertens (Richard A. Mertens@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Ben A. Freeland (Ben A. Freeland@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Peter G. Jacoby (Peter G. Jacoby@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Kate P. Donovan (Kate P. Donovan@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Angus S. King (Angus S. King@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Linda Lance (Linda Lance@EOP@LNGTWY@EOPMRX)

READ:NOT READ

TO: Justine F. Rodriguez
READ:NOT READ

(Justine F. Rodriguez@EOP@LN GTWY@EOPMRX)

TO: Julie E. Mason
READ:NOT READ

(Julie E. Mason@EOP@LN GTWY@EOPMRX)

TO: Mary Jo Siclari
READ:NOT READ

(Mary Jo Siclari@EOP@LN GTWY@EOPMRX)

TO: Barry J. Toiv
READ:NOT READ

(Barry J. Toiv@EOP@LN GTWY@EOPMRX)

TO: Toni S. Hustead
READ:NOT READ

(Toni S. Hustead@EOP@LN GTWY@EOPMRX)

TO: Christopher R. Ulrich
READ:NOT READ

(Christopher R. Ulrich@OVP@LN GTWY@EOPMRX)

TO: Russell W. Horwitz
READ:NOT READ

(Russell W. Horwitz@EOP@LN GTWY@EOPMRX)

TO: Elena Kagan
READ:NOT READ

(Elena Kagan@EOP@LN GTWY@EOPMRX)

TO: Eugene M. Ebner
READ:NOT READ

(Eugene M. Ebner@EOP@LN GTWY@EOPMRX)

TO: Steven D. Aitken
READ:NOT READ

(Steven D. Aitken@EOP@LN GTWY@EOPMRX)

TO: Robert S. Dotson
READ:NOT READ

(Robert S. Dotson@EOP@LN GTWY@EOPMRX)

TO: David H. Morrison
READ:NOT READ

(David H. Morrison@EOP@LN GTWY@EOPMRX)

TO: Rodney G. Bent
READ:NOT READ

(Rodney G. Bent@EOP@LN GTWY@EOPMRX)

TO: Bruce K. Sasser
READ:NOT READ

(Bruce K. Sasser@EOP@LN GTWY@EOPMRX)

TO: Jack D. Fellows
READ:NOT READ

(Jack D. Fellows@EOP@LN GTWY@EOPMRX)

TO: Gary L. Bennethum
READ:NOT READ

(Gary L. Bennethum@EOP@LN GTWY@EOPMRX)

TO: Keith J. Fontenot
READ:NOT READ

(Keith J. Fontenot@EOP@LN GTWY@EOPMRX)

TO: Larry R. Matlack
READ:NOT READ

(Larry R. Matlack@EOP@LN GTWY@EOPMRX)

TO: Robert M. Shireman
READ:NOT READ

(Robert M. Shireman@EOP@LN GTWY@EOPMRX)

TO: Richard J. Turman

(Richard J. Turman@EOP@LN GTWY@EOPMRX)

READ:NOT READ

TO: Louisa Koch (Louisa Koch@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: David E. Tornquist (David E. Tornquist@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: David J. Haun (David J. Haun@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Francis S. Redburn (Francis S. Redburn@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Harry G. Meyers (Harry G. Meyers@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Edward A. Brigham (Edward A. Brigham@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Edward M. Rea (Edward M. Rea@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Andrew M. Schoenbach (Andrew M. Schoenbach@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Alice E. Shuffield (Alice E. Shuffield@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Jill M. Pizzuto (Jill M. Pizzuto@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Patricia E. Romani (Patricia E. Romani@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Melissa Green (Melissa Green@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Michael W. Williams (Michael W. Williams@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Anne H. Lewis (Anne H. Lewis@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Peter R. Orszag (Peter R. Orszag@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Jake Siewert (Jake Siewert@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Charles R. Marr (Charles R. Marr@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Kathryn B. Stack (Kathryn B. Stack@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Rhodia D. Ewell (Rhodia D. Ewell@EOP@LNGTWY@EOPMRX)
READ:NOT READ

TO: Ricardo M. Gonzales (Ricardo M. Gonzales@EOP@LNGTWY@EOPMRX)

READ:NOT READ

TO: Alecia Ward (Alecia Ward@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Laura S. Marcus (Laura S. Marcus@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Eric R. Anderson (Eric R. Anderson@OVP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Mathew C. Blum (Mathew C. Blum@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Steven L. Schooner (Steven L. Schooner@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Michael Deich (Michael Deich@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Collin Brown III (Collin Brown III@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Janie L. Jeffers (Janie L. Jeffers@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Joseph M. Wire (Joseph M. Wire@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TO: Arecia A. Grayton (Arecia A. Grayton@EOP@LNWTWY@EOPMRX)
READ:NOT READ

TEXT:
Message Creation Date was at 13-JUN-1997 20:04:00

TO: DIRECTOR FRANK RAINES
DEPUTY DIRECTOR JACK LEW
DEPUTY DIRECTOR JOHN KOSKINEN
EXECUTIVE ASSOCIATE DIRECTOR JOSH GOTBAUM

FROM: OMB LEGISLATIVE AFFAIRS

DATE: JUNE 13, 1997

SUBJECT: LEGISLATIVE REPORT

RECONCILIATION:
The House authorizing committees have completed their action on the reconciliation bill. The House Budget Committee is tentatively scheduled to markup to package the instructions on Wednesday, June 18, beginning at 10:00am. Budget process provisions will be added at that time, and the entire package will then go to the Rules Committee, which is scheduled to meet the following week, likely June 25th or 26th.

Senate Committees still have a number of markups to take place next week, and the Senate Budget Committee markup has not yet been scheduled. It is possible that the Committee will meet the week of June 23rd, but not certain.

In a press conference today, the Senate Finance Committee released the

Chairman's mark for the spending provisions. The Senate Finance Committee will begin consideration of Medicare, Medicaid, Kids Health, Welfare to Work, benefits for immigrants and unemployment insurance on a rolling basis Tuesday, June 17th, followed by consideration of the tax provisions on Wednesday or Thursday.

Next week's reconciliation markup schedule:

Tuesday, June 17th

- o Senate Commerce Spectrum, Vessel Tonnage Fees
- o Senate Finance Committee Spending Provisions
- o Senate Government Affairs Civil Service, Postal Service, Governors, Island Air Rights

Wednesday, June 18th

- o Senate Finance Committee Spending Prov.
- o Senate Banking Committee Housing Provisions
- o House Budget Committee (likely) Reconciliation Package

Thursday, June 19th

Senate Finance Committee Tax Provisions

CONGRESS TODAY (6/13):

Both the House and the Senate were out of session

CONGRESS -- NEXT WEEK:

SENATE

Monday, June 16

The Senate will convene at 11am for morning business until 12:30pm. They will then take up the State Authorization Bill, but any votes that are ordered will be stacked to occur on Tuesday.

[SAP under development]

Tuesday, June 17 and the balance of the week:

Hold stacked votes on the State Authorization Bill, ordered on Monday

[SAP under development]

Consider the Defense Authorization bill, when available

[SAP under development]

Consider H.R. 867 - Adoption Promotion Act of 1997 (possible)

[SAP under discussion]

Other items the Senate may consider prior to the July 4th Recess:

- o National Missile Defense bill
[SAP pending]
- o FDA Reform Bill
- o Juvenile Justice Legislation
- o Homeowners, private mortgage insurance
- o Rural & hub zones legislation
- o Budget Reconciliation Bills

HOUSE

Monday, June 16

Meet at 12 noon for a pro forma session

Tuesday, June 17

Convene at 12:30 pm for morning session, and 2:00pm for legislative business.

(No recorded votes before 5pm)

Private Calendar:

S. 768 - A Bill for the Relief of Michel Christopher Meili, Giuseppina Meili, Mirjam Naomi Meili, and Davide Meili

[No SAP]

Suspensions:

H.J.Res 56 -- Celebrating the End of Slavery in the US

[No SAP]

H.R. 1057 - Designating the Andrew Jacobs, Jr. Post Office Building

[No SAP]

H.R. 1058 - Designating the John T. Myers Post Office Building

[No SAP]

H.R. 985 - Eagles Nest Wilderness Expansion

[No SAP]

H.R. 1747 - Kennedy Center Parking legislation

[No SAP]

Wednesday, June 18, and the balance of the week

On Wednesday and Thursday, the House will meet at 10am, and on Friday the House will meet at 9am for legislative business.

Consider H.R. 437 - National Sea Grant College Program Reauthorization Act of 1997 (Open Rule)

[SAP sent 6/11: Administration supports but will seek amendments]

Consider H.R. 1119 - National Defense Authorization Act for Fiscal Years 1998 and 1999 (Subject to a rule)

[SAP under development]

The House also expects to take up the following items prior to the July 4th Recess:

- o Partial-Birth Abortion Bill (the Senate-passed bill)
- o Budget Reconciliation Bills
- o Legislation regarding China's MFN status (possible)

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Andrew J. Mayock (CN=Andrew J. Mayock/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:13-JUN-1997 14:41:57.00

SUBJECT: Feedback from Outreach Calls

TO: David S. Beaubaire (CN=David S. Beaubaire/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Emil E. Parker (CN=Emil E. Parker/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Katherine Hubbard (CN=Katherine Hubbard/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: James T. Edmonds (CN=James T. Edmonds/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Lynn G. Cutler (CN=Lynn G. Cutler/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Richard Socarides (CN=Richard Socarides/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Ann F. Walker (CN=Ann F. Walker/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Ellen M. Lovell (CN=Ellen M. Lovell/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Thurgood Marshall Jr. (CN=Thurgood Marshall Jr./O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

TO: Robert N. Weiner (CN=Robert N. Weiner/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Richard L. Hayes (CN=Richard L. Hayes/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Bob J. Nash (CN=Bob J. Nash/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Maria Echaveste (CN=Maria Echaveste/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Ananias Blocker III (CN=Ananias Blocker III/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Joseph P. Lockhart (CN=Joseph P. Lockhart/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Carolyn Curiel (CN=Carolyn Curiel/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Beverly J. Barnes (CN=Beverly J. Barnes/OU=WHO/O=EOP @ EOP [WHO])

OUTREACH

Moore - I made all might calls and I am covering some additional bases...Mixed reaction on the advisory board. Generally positive on the initiative itself...I am so tired

Lewis - I talked today with : -- the **Senate Democratic Caucus** , with Attorney General Reno and Secretary Reno. We had very positive response to the Initiative from Senators. A number made specific suggestions , including Senator Mikulski who talked about the importance of the "social glue..the ties that bind" She urged us to consider ethnicity as well as Race, to appreciate the need for economic empowerment, and to talk of America as a mosaic . Mary Landrieu joins in this recommendation. - Senators Kennedy and Feinstein had specific questions to the Attorney General about the Hate Crimes statute. Senator Feinstein mentioned the importance of positive images in the media .

Rabbi David Saperstein: Very positive, got a lot of press calls yesterday - I encouraged him to start returning them -- aware of advisory group and will be supportive.

Outside friends : **Mike Berman, Leslie Dach, David Dreier, Jack Quinn, Steve Ricchetti, Kirk O'Donnell.** A positive response - we also went through talking points, themes and the Advisory Board. They like idea that these are new faces , not usual suspects; think growing press interest very positive for the President. Made these recommendations:

- in addition to existing talking points they could use brief statement of Presidential actions (such as defense of affirmative action, to remind people he has been working on this) ;
- stick with it ; be steadfast --now that you've told people this is so important you have to continue sustained effort;
- work with Advisors in advance of any "unforeseen " incidents because they will be asked for response to events.

Lenny Zakim --office closed for Shavuot

Eli Weisel -- given the problems on Tuesday night, I think it best if he hears next from the President; a draft note is at President's office.

Lovell - wonderful talk with Father Leo; I hadn't realized he was in the meeting with the President - he said he loved it and it was very moving; he appreciated the heads up on the advisors.

I added Lerone Bennett to the call list with Maria's OK; he is the Executive Editor of Ebony Magazine, an historian and author of many books, including Before the Mayflower. He was very happy to be called and said:" If he can deal with this he'll go down in history - he's gone further than any other President. It's a great, great effort." Lerone said he would talk this up among his colleagues; we shouldn't forget to contact Ebony for an article or interview. Lerone was especially happy to hear about John Hope Franklin's involvement.

Arthur Schlesinger called back - he was again glad to be consulted - his reaction to the advisors was : "no Indian." He said we must hire more than one Native American on the staff. Otherwise positive - he said he'd call back with any suggestions as this rolls out. He repeated that he would like to see the President talk about the importance of JOBS in the speech - families do not stay together without economic security.

I heard from Cynthia Schneider - a friend of the Clinton's and Vice-Chair of the President's Committee on the Arts and the Humanities - that Washington Post reporter Peter Carlson called her to discuss presidential commissions - his angle seemed to be that they never do anything. Cynthia talked to him about all the accomplishments that occur. Don't know who else he is talking to.

I called Quincy Jones - did not give him advisors names but described initiative - we talked for almost 15 minutes; Quincy would like to be helpful and suggested a documentary film be made about the whole effort - to send to college campuses and for PBS and for historical purposes. I don't know if there is any more room at the speech/lunch in San Diego, but I think he'd be eager to go. Quincy said that race is THE issue in US today; race relations are worse than ever; he believes McVeigh crime had racial motives; he and Sidney Poitier were saying just a day ago that the President is the best person to speak about it; "Bill understands the street."

Matsui - Also talked to J.D. Hokoyama of LEAP--Leadership Education for Asian Pacific---he like the board and was really enthusiastic about Angela OH.

These calls have been made:

KarenNarasaki--National Asian Pacific Legal Consortium

Daphne Kwok--Organization of Chinese Americans

Matt Finucane--Asian Pacific American Legal Alliance

Chancellor Tien

Ron Takaki--Professor at U.C. Berkeley

Stuart Kwoh--Asian Pacific American Legal Center of Southern California

They are all enthused about the Advisory Board and especially really respect the choice of Angela Oh. I expect that the organizations will be issuing favorable press releases.

Liss - Wanted to give you all feedback from my call to Deval Patrick. He is very supportive of President's efforts, and pleased with the names of the Advisory Council. He will be doing BET Talk Back Live tonight, and Face the Nation on Sunday. He plans to be supportive, to say that his hopes are high for this initiative, and that he wants the President to raise the expectations of the country: "great presidents have raised expectations and invited the nation to share those high expectations." I shared with him the President's commitment to action, along with dialogue and study. I faxed him whatever you have sent us that is for external use. We should consider sending him more before Sunday.

Johnson - Neas not there - no reaction, Ron Walters, Joe Lowery Charles Stith not there; Green spoke to him- less than stars; ; Eddie Williams (didn't know Cook) Joint Center for Policital and Economic Studies;

Leg - called senators from ad bds states; notified the staff dir. for Labor comm
a lot of other members called looking for info

Dorothy Height -

needs follow thru very important; any grant money for further study

Also, receiving a lot of calls - Campaign for Human Dignity; want to know what's happeneing

Advisory Board Member's Bios and reconciliation talking points have been faxed to over 250 black leaders across the country. Additionally, it has been faxed to over 300 black clergy leaders in the U.S.

Chirwa - For starters, I only had a few people to call -- mostly old professors of mine. (I've been too busy trying to make airline reservations for Board members to do anything so mundane as talk to prominent people about a crucial issue of our time).

But, the feedback I've received so far:

Glad to see the President is talking about this issue -- think a national conversation is long overdue and necessary. Most said they want to wait and see how bold the President will be. Also, everyone said we need to focus each public discussion on a particular issue and race, rather than "race relations" generally -- e.g. housing discrimination or economic opportunity or educational disparity. So, we are on the right track there.

Major risk to the endeavor: That we will have this year-long effort and people will talk about race and some of the conversations will be cathartic and then people will think at the end of the year that they've been "innoculated" from charges that they haven't done enough to promote racial healing and thus don't have to continue the conversation. We have to guard against an inclination to breathe a collective sigh of relief after the year is up and say we've now finally discussed race enough. This has to be the start of a very long process of healing which should continue, possibly indefinitely.

Echaveste Left messages (with names of the Advisory Board) for Hugh Price--he was at his board conference), MArian Wright Edelman, Charles Kamaski (for Raul Yzaguirre--who was traveling), Henry Cisneros, and Cruz REynoso (also left him message re invitation to speech and luncheon on 6/14. Judith Lichtman said she was cautiously optimistic but was not wildly enthusiastice about the board's makeup, esp age. Marcia Greenberger was ok. Jerry Shea for John Sweeney was not ecstatic about Robert Thomas of Nissan, but thought they (AFL-CIO) may hold their fire, otherwise thought it was good. Dennis Rivera was positive. Belen Robles of LULAC was positive but expressed some concern that the effort would not be limited to black/white relations.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Bruce Reed to Elena Kagan re: Another Draft Manifest - Trip of the President to San Diego (1 page)	06/13/1997	P6/b(6)

COLLECTION:

Clinton Presidential Records
Automated Records Management System [Email]
OPD ([Kagan])
OA/Box Number: 250000

FOLDER TITLE:

[06/13/1997]

2009-1006-F
bm17

RESTRICTION CODES

Presidential Records Act - [44 U.S.C. 2204(a)]

P1 National Security Classified Information [(a)(1) of the PRA]
P2 Relating to the appointment to Federal office [(a)(2) of the PRA]
P3 Release would violate a Federal statute [(a)(3) of the PRA]
P4 Release would disclose trade secrets or confidential commercial or financial information [(a)(4) of the PRA]
P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
P6 Release would constitute a clearly unwarranted invasion of personal privacy [(a)(6) of the PRA]

C. Closed in accordance with restrictions contained in donor's deed of gift.

PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

Freedom of Information Act - [5 U.S.C. 552(b)]

b(1) National security classified information [(b)(1) of the FOIA]
b(2) Release would disclose internal personnel rules and practices of an agency [(b)(2) of the FOIA]
b(3) Release would violate a Federal statute [(b)(3) of the FOIA]
b(4) Release would disclose trade secrets or confidential or financial information [(b)(4) of the FOIA]
b(6) Release would constitute a clearly unwarranted invasion of personal privacy [(b)(6) of the FOIA]
b(7) Release would disclose information compiled for law enforcement purposes [(b)(7) of the FOIA]
b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:13-JUN-1997 14:32:54.00

SUBJECT: Re: studies

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Diana Fortuna (CN=Diana Fortuna/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

I spoke to Sawhill, who will fax me her draft study -- not for circulation, but it's okay to write to the President about it. She's making some changes this afternoon, and will fax after that -- hopefully in time for the weekly. I'll let you know.

Phil Levine spoke to Bob Lehrman, who actually has no "study" -- despite NPR's description. He had simply eyeballed some data on New York City and Indianapolis and spoke to the reporter about it.

Elena Kagan
06/13/97 01:16:58 PM
Record Type: Record

To: Cynthia A. Rice/OPD/EOP, Diana Fortuna/OPD/EOP
cc: Bruce N. Reed/OPD/EOP
Subject: studies

We should get the Lehrman study -- and also the study by Sawhill mentioned in today's Wall St Journal -- and do either weekly items or a full-dress memo about them. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Emily Bromberg (CN=Emily Bromberg/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:13-JUN-1997 14:35:15.00

SUBJECT: cos scheduling

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

larry haas tells me that the vp is doing the immigrant event thursday with congressional members, advocates, and i think real people. he was not inclined to include mayors and i agreed for the reasons bruce and i talked about yesterday--mainly that they think we should fund everything--restor all the immigrant cuts. unless it's to our advantage to have the world hear a bipartisan group of mayors on this, we should not include them.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Diana Fortuna (CN=Diana Fortuna/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:13-JUN-1997 17:23:17.00

SUBJECT: child care conf wednesday

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

A good friend in San Francisco (her name is Deena Lahn) got an invitation from you to come to the child care planning conference on Wednesday. Since it would be a bit of a stretch for her to come, she's wondering if it's a worthwhile meeting. Any guidance I can pass along to her diplomatically?

RACE IDEAS

Austin themes: 1) resp to reach out across divide, end racism, etc. (e.g. military not cops)
2) opportunity
3) education

DISCRIMINATION

-- eoc
-- HUD efforts?

OPPORTUNITY

1. Housing
 - make all public housing safe (COPS announcement)
 - vouchers
2. Capital
 - CDFI, CRA
 - E-zones
3. Environment
 - Brownfields
4. Health care
 - AIDS? Genetic screening?
 - kids health
5. Crime/safety
 - afterschool programs
 - more cops to hot spots
6. Welfare/jobs
 - WR, immig fixes; min wage
 - child care

EDUCATION

1.

POLICY DIRECTION: PROBLEM / SOLUTION

1. Education

- Inner city schools
 - Stds, reading, teachers and technology, acctability
 - Real problem -- back end/front end; every child can learn
- Access to college
 - Pell grant, HOPE
 - Mend it don't end it

2. Economic opportunity

- Outside the economic mainstream
 - CD banks, E-zones, capital, brownfields, CRA

3. Housing

- Public housing is a travesty
 - Safety (cops/gangs). Empowerment/Vouchers.
- Discrimination in housing -- segregated neighborhoods lead to segregated educ etc.
 - Part govt (HUD doing its utmost); but lots in our hearts (brother neighbor)

4. Welfare/jobs

- Ending the underclass, bring into the economic mainstream
 - Work/child care/more jobs/transportation/min wage/challenge to business
- Immigrant benefits

5. Crime

- Ravages of crime/Systematic underprotection of minorities (no segregation of safety)
 - More cops, less guns, after-school programs, gangs, drugs
 - Powell/Cisneros/at-risk kids/Summit

6. Racism

- There are places in society where this works, models of respect and progressive race relations. Military -- opportunities, policies, enormous contribution minorities make b/c of it. Every part of America should be like that -- every employer should follow it (Texaco, Dennys). Every citizen should learn from it -- duty we all owe one another. LAPD example.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: William R. Kincaid (CN=William R. Kincaid/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:13-JUN-1997 16:15:44.00

SUBJECT: race speech concept

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

CC: Michael Cohen (CN=Michael Cohen/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

I know it's very late in the game, but it sounds like things could still be a little fluid on the UCSD speech, so I wanted to quickly throw out an idea for tomorrow (or perhaps for follow-up). I'd be more than happy to help flesh this out if you are interested.

To help improve race relations in this country, I would argue that a big part of what the President needs to do is simply to help people of different racial and ethnic backgrounds better understand each other and help them begin to figure out how to candidly, but respectfully discuss their differences. He needs to start a national conversation on race relations, but one that is conducted in small settings by real people who actually take some time to get to know each other, not just in big forums or on TV. Without being too specific in his speech tomorrow, I think he could challenge Americans to take a risk and move beyond the surface relationships that they already have with people of different races in their workplace or at school, and really take some time to sit down and talk with each other about their values and how they see the world, and, in particular, their perceptions on race. He could charge this new advisory group that he is forming to work with national and community organizations around the country to foster such discussions.

The model I have in mind is something that I participated in during law school, and that eventually expanded to other campuses because it was so powerful. The main feature was a small, 10-14 person discussion group that made a firm commitment to meet every two weeks throughout the school year. The initial group was half black and half white, roughly half male and half female. As more groups formed, Hispanic and Asian-American students took part, as well. We would typically gather for dinner in people's homes, and then engage in a focused, extended discussion on some aspect of race relations, often based on short readings that participants did beforehand, and guided by a small number of questions prepared by a rotating set of leaders. The first conversation took as a starting point a passage by W.E.B. DuBois on "the color line," and focused on when and how each of us first became conscious of race. Subsequent discussions (after people got to know and trust each other) dealt with such topics as friendships with people from other racial/ethnic backgrounds, affirmative action (related to both employment and university admissions), "black" TV programs (like Fresh Prince of Bel Air), rap music, language, and so forth. (If we began the series today, there would clearly be a night on the OJ verdict). The discussions--which were sometimes fairly wrenching--illuminated the often radically different experiences and perceptions that whites and minorities have in this country, but also helped participants un

derstand how to take account of those differences in working and communicating with each other. Over the course of the year, some very close friendships resulted.

No doubt our discussions were far easier for a bunch of idealistic law students to pull off than they would be for folks in the real world, and much different approaches would be needed from community to community. Moreover, this concept doesn't directly address that so much of the racial tension in this country is as much about class as race. Still, I believe many, many Americans would respond to this kind of challenge, especially if given the right kind of help from others in their community. Extending a challenge like this would allow the President to demonstrate leadership on something that really matters--helping people understand each other--without proposing some big new program. This approach would let the President make the point strongly that we can't ultimately bridge America's racial divide just by something that our leaders say, or by laws that they pass, but that it depends on millions of individual Americans taking time to get to know each other and to trying to see the world from another's point of view.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Christa Robinson (CN=Christa Robinson/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:13-JUN-1997 14:54:59.00

SUBJECT: Education PSA

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Laura Emmett (CN=Laura Emmett/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Karin Kullman (CN=Karin Kullman/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

CC: Michael Cohen (CN=Michael Cohen/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

There are essentially two sponsors of the Education PSAs:

I. Education Excellence Partnership: Business Roundtable. National Alliance of Business,, NGA,, AFT, US Dept of Education, Chamber of Commerce, and NEA.

II. Major League Baseball - Owners, Players Association (Don Feir)

Speakers in the program could be as follows (in order of priority):

- POTUS
- Major League Baseball Acting Commissioner
- Orioles Player (Ripkin, Mike Musina, Brooks Johnson?)
- Norm Augustine, CEO Lockheed-Martin, Pres. of Business Roundtable
- Education Task Force
- Governor
- Teacher

NOTE: To do this announcement on the field immediately prior to the game would probably mean that only the President and a baseball rep. would speak BRIEFLY and then they'd show the PSA. We would recommend, however, that in order to present a full unveiling of the PSAs to the press and allow the other key folks a chance to speak that there should be an off-field event at the Warehouse building at Camden Yards before the President goes out onto the field.

Players who have taped PSAs that will be showed continually through the game are:

Tom Glavin, Atlanta Braves
Brett Butle, LA Dodgers
Tony Gwynn, San Diego Padres

**The game is at 3:05pm on July 2nd.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Diana Fortuna (CN=Diana Fortuna/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:13-JUN-1997 15:13:39.00

SUBJECT: FYI in case you didn't see it,here's what the President said yesterday at

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

Let me say, finally, that there are a few other things that I think we have to do beyond these three issues of finishing the work of the budget, investing in our people, and expanding trade. This moment of prosperity and stability has given us an opportunity to work together to repair our social fabric, to join together to face those issues which, if we don't face them, could flare into crises and keep us from becoming the nation we ought to be in the new century.

And let me just mention a few. You were kind enough to mention the Summit of Service that President Bush, President Carter, Mrs. Reagan, and General Powell and I and others sponsored in Philadelphia. One of the things we have to do if we want to give our children a better future is to help their parents be gainfully employed. We were able to reduce the welfare rolls dramatically because of a growing economy and because of work we did with states before the passage of the welfare reform bill to help them move people from welfare to work.

Now, this welfare reform bill did two things. It required people on welfare who are able-bodied to move from welfare to work within a certain amount of time, and it gave the states in a block grant funds that used to be spent in a federal entitlement so that they would have more flexibility to create incentives for people to move from welfare to work.

Forty of our states now have a windfall there because they're getting money based on how much they got when the welfare rolls were at their peak, and there has been a 20 percent-plus drop in the welfare rolls in the last three years.

I urge you, in all the states that you're working in, to get the governors, to get the legislators to work with the business community to spend that money in ways that, with your efforts, can move a million more people from welfare to work in the next four years. We moved a million people in the last four when we were creating 12 million jobs -- that had never been done before, the 12 million jobs. Neither had the million people.

Under the terms of this welfare reform law, whether we create 12 million jobs or not in the private sector, we have to move

nearly another million people. We have got to have your help. But the states have the power to do things like give employers the welfare check for a year or two to use as an employment and training subsidy for people that are especially hard to place; to spend even more money on child care; to spend money on education and training.

So I implore you to help us do this. It will be a terrible thing if, having called for welfare reform and personal responsibility, the end of it is to wind up hurting poor people. That was never what was intended. The children should not suffer in this. And you are going to have to take the lead in helping to do this.

The second thing I'd like to say is, we have to -- now having faced the structural budget deficit in the country -- we have to deal with the generational deficit. That means we have to have long-term entitlement reform to face the realities of the baby boom generation retiring. And I will be -- as soon as we get the budget out of the way, I'll be working with the bipartisan leadership in Congress on an approach to that, and I ask for your support.

It also means that we have to fulfill the mission of the Philadelphia summit, with the public and the private sectors doing their jobs. Remember what the Philadelphia Summit was about: every child ought to have a safe place to grow up, decent health care, a good education and marketable skills, a mentor and the chance to serve.

And we live in a country where 11 percent of the people over 65 are poor, but 20 percent-plus of the people under 18 are. And we cannot do well unless we do better by our children. So this inter-generational thing is about entitlement reform, but it's also about giving our kids a better chance.

The third issue -- the one I'm going to speak about in San Diego in a couple of days -- and that is the challenge presented to us as we become the world's first truly multi-racial democracy. We have five school districts in America today with kids from over 100 different racial and ethnic groups -- five. We'll soon have 12.

We have -- we all know this, but my Baptist minister from Arkansas came up to see me during the Inaugural and he told me he had a cousin who had a Baptist church across the river here in Virginia that now has a Korean mission and runs English as a second language classes out of the church. There are thousands of stories like this.

And yet we know that there are still dramatically different perceptions among different racial and ethnic groups, starting with the historic tensions that have existed between African Americans and whites in the country and layered on by the successive waves of immigrants that pose great challenges to us.

When you look at how the world is being torn asunder in the Middle East, in Bosnia, in Northern Ireland, and Africa, by people who would rather kill each other over their differences than celebrate what they share, you realize that what we are trying to do here is truly astonishing.

Within the decade, more than one state in America will

have no majority race -- within the decade. Within three decades, the whole country will almost have no majority race. We are going to test whether what we always say about America is true -- that we are basically a country founded on an idea. It's not about land. It's not about race or ethnic origin. It's about the idea that all of us are created equal. And that means, among other things, we have to deal with both the perceptions and the reality.

And I don't want to get into this except to say that I hope that all of you are concerned by the consequences of the wholesale abolition of affirmative action on enrollment in higher education that we've seen in California and Texas. And I know a lot of employers of large companies have led the way in trying to preserve a sensible form of affirmative action. So I ask you to consider that because this is not just the President and the government. All of us are the stewards of whether we can become one America in the 21st century.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Michael Cohen (CN=Michael Cohen/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:13-JUN-1997 18:17:25.00

SUBJECT: Re: ed memo

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

CC: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

Attached is the latest draft, responding to Elena's suggestions. Here's what I've done:

1. I've deleted both the suggestion for a high school test and for requiring kids to meet standards in order to get college aid, as suggested by Elena. I think the President would love a high school test, and I think its a good idea. However, I've always thought we had to have 4th and 8th grade testing pretty well along before we take on the 12th grade. Unlike Elena, I'm not concerned that the President will think this proposal is nonresponsive; my fear is that he will go for it before we are ready to take it on. On the other hand, I think the President is very unlikely to go for the college aid proposal, and we will run into all kinds of opposition within the Administration and the education community. Upon reflection, I'd rather drop this for now, and have a serious discussion with the two of you as to whether we should make a serious run at this as the Higher Education Act proposal comes to us.
2. With respect to the state (and local) sign-on events, I now talk about signing on a "handful" of states or cities, with no specific number.
3. I'm comfortable reminding him of our goal of 20 states this year and 20 the next, even though he will no doubt remember it more clearly and more often than any of us. They are ambitious goals, but worth pursuing. And the President ought to believe that we have specific and ambitious goals for this, and are killing our selves to reach them. What would he think of us if we didn't. (Besides, fresh off the success of coming close to "first in the world in math and science", I'm ready to set another impos sible target1)
4. In the section desribing possible Congressional fights, I've removed the notion that we might send up legislation that would condition receipt of federal funds on the use of the tests. this is on the theory that I shouldn't propose anything that I couldn't live with the President actually agreeing to. I'm ok with leaving in an option that we provide incentives for states to use the tests, though not wild about it.
5. I've had my intern proof the memo, and fixed the problems we caught. However, the last two lines of the memo, now the only two lines on the last page, start in the middle of the page. I have not been able to figure out how to fix that. I hope that when the two of you make any final changes and have Cathy print it out in final, she will be able to take care of that.

Let me know if you need anything else.

===== ATTACHMENT 1 =====

ATT CREATION TIME/DATE: 0 00:00:00.00

June 13, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
MICHAEL COHEN

SUBJECT: Long-Term Strategy for National Standards and Tests

Tuesday's TIMSS announcement of 4th grade progress in math and science was front-page news across the country. This memorandum provides an update on our efforts to sign up states and cities for the testing initiative, and outlines a long-term plan to secure broad support.

I. TEST DEVELOPMENT

The test development process is on track to be ready for administration as a pilot in Spring 1998 and nationwide in Spring 1999.

A contract has been awarded to the Council of Chief State School Officers (CCSSO) to develop the detailed specifications for the reading and math tests. This involves, for example, determining the balance of multiple choice and open-ended items for each test.

CCSSO performed this same role for the development of NAEP, and this step is one signal to the education community that the new tests will in fact parallel NAEP as promised. As it did with NAEP, CCSSO has also established several advisory committees of subject matter specialists, testing experts and the education community to help guide the development of test specifications.

The Request for Proposals for the test development contracts has been let, and the contracts will be awarded before September 30. The Education Department is on schedule to award additional contracts for related research, development and evaluation necessary for the development and validation of the tests.

II. STATE PARTICIPATION

The success of this initiative is largely dependent on the voluntary efforts of states to incorporate the 4th grade reading and 8th grade math tests into their state testing programs. We have focused most of our efforts toward building a critical mass of states, with governors of both parties, to commit to participate in the testing program. We continue to believe that if we can achieve this objective over the next several months, we will pave the way for most remaining states to sign up over the course of the next school year.

Over the last four months, we have waged an intensive retail campaign to solicit every state's participation. Secretary Riley has written to every governor and chief state school officer, and

he and Mike Cohen have worked closely with scores of state officials on ways to incorporate our tests into their state's approach to standards, testing and reform. The Vice President and Secretary Riley met with more than 40 chief state school officers in April, and secured their organization's endorsement.

We have made steady but slow progress to date. Half a dozen states are on board; another dozen are within reach of the next few months, as outlined below. But even states with leaders strongly committed to participating in the test are reluctant to commit publicly without first building the necessary support within the state. A number of factors are making officials in many states cautious. These include financial and political investments that states have already made in their own state standards and tests; skepticism from the education community about "yet another test"; concern about stimulating opposition from the far right, especially in states which experienced serious battles over state reform efforts or over Goals 2000; short-term distractions during the legislative sessions; limited understanding among governors about NAEP and the relationship between the new national tests and NAEP; and diffuse governance arrangements and tensions between governors and other state education officials. In each state we have to overcome these hurdles and take advantage of strong public support for national tests in reading and math,

States Signed Up: As you know, 6 states -- Maryland, Michigan, North Carolina, West Virginia, Massachusetts, and Kentucky -- have pledged to participate in the test, with support in each case coming from the governor, the chief state school officer and the state board of education. In addition, the Department of Defense schools have also pledged to participate in the testing initiative.

In a seventh state, California, State Superintendent Delaine Eastin has pledged her support, though Gov. Wilson and the State Board of Education (Wilson appointees) have withheld theirs. They have not opposed participation in the test, but instead have chosen to oppose Delaine's independent action. These 7 states represent approximately 24% of the nation's 4th and 8th graders.

Next Target States: A number of additional states are within reach in the near future, based on our discussions with governors and chief state school officers. Over the next several weeks we will work to nail down as many of these states as possible. If possible, we would like to hold a multi-state sign-up event with a handful of states at the White House in mid-July.

Our most promising current targets are 14 states with about 20% of the 4th and 8th grade population:

Tennessee The Commissioner of Education (a gubernatorial appointee) has asked if it would be possible for Tennessee to announce its participation in the testing initiative the day before the Vice-President's Family Conference, when the Vice President returns to the state. She is reconfirming Gov. Sundquist's support for participation, and we are working with the Vice

President's office to schedule an event.

Colorado Gov. Romer has indicated his intention for Colorado to participate. We are working with him to determine how soon he will be prepared to announce publicly.

Nevada Gov. Miller has indicated that he wants Nevada to participate. We are also working with him to determine the timing of the announcement.

Vermont Gov. Dean wants Vermont to participate; he is working to secure the support throughout the state for Vermont's participation. One critical step in this process is a mid-July meeting of a state task force on student achievement. No official decision will be made until after this meeting.

Missouri Gov. Carnahan and his chief state school officer are prepared for Missouri to participate in the 4th grade reading test. They have just completed the development of an 8th grade state math test (at a cost of \$6 million) and do not believe they can move forward with a separate national math test as well. We are working with Carnahan to determine the timing of an announcement.

Delaware Gov. Carper is heavily leaning toward participating in the national testing initiative; he is planning on working to secure the support of his state board of education and legislature. We will work with Carper to determine how soon he will be prepared to make a public commitment.

Utah Gov. Leavitt has expressed tentative interest in having Utah's participate, pending consultation with his chief state school officer. We are following up directly and working with Romer to secure Leavitt's support.

Wyoming Gov. Berringer participated in a conference call with Secretary Riley, Mike Cohen, and a number of governors identified above. He expressed considerable interest, and we are now following up with him.

Oregon Gov. Kitzhaber and State Superintendent Norma Paulus are both interested in Oregon's participation, with the most active leadership coming from Norma. Norma has indicated they would be willing to make a public announcement after the legislature adjourns in late June.

New Jersey Preliminary discussions with the New Jersey Commissioner of Education (a gubernatorial appointee) indicated clear interest from him and Gov. Whitman. However, within the past few weeks the New Jersey Supreme Court ruled that the state's approach to complying with a court order to provide more equitable funding is itself unconstitutional. As a result of this decision, the attention of state education officials is now heavily focused on school finance issues. However, we are trying to determine if an announcement from New Jersey will be feasible in the near future.

New York Commissioner Rick Mills is working to secure New York State's participation in

your testing initiative. He has discussed this privately and publicly with the Board of Regents, has solicited input from education and business leaders in the state, and has discussed it with Gov. Pataki. There is no specific timetable for the Regents to take this issue up, but Rick is pushing to have the Regents consider this as soon as possible.

Wisconsin Gov. Thompson has moved from initial opposition (he wrote an op-ed piece in the New York Times in February) to tentative interest, in part due to several conversations with Secretary Riley which resolved some misunderstandings he had. We believe Thompson is interested in having Wisconsin participate in the tests, although a running conflict with his chief state school officer may make it difficult for Thompson to provide the necessary in-state leadership. We are reaching out to the chief state school officer in an attempt to resolve this problem.

New Hampshire Gov. Shaheen is inclined to support participation in the test, as is Commissioner of Education Betty Twomey. They are both currently preoccupied with enacting Shaheen's kindergarten initiative. Once the legislative session is over, we will approach Gov. Shaheen again.

Maine Both the Commissioner of Education and Gov. King have expressed preliminary interest in participating in the test. We are working with them to address concerns they have raised regarding how best to integrate the tests into their own standards and tests, and to explain participation in national standards and tests to the public after so much effort has gone into developing the state's own standards.

Next Steps: Secretary Riley and Mike Cohen have met with Govs. Bob Miller, Romer, Hunt, Thompson and Leavitt and discussed the possibility of a bipartisan effort between now and the NGA meeting, to reach out to and gain the support of as many governors as possible. The Democratic governors are prepared to help; we are trying to determine over the next several days which of the Republican governors will also help. We will then proceed to work with the governors to secure the commitment of as many states as possible to participate in the testing initiative.

- **Democratic States:** We are making a special effort to reach out to the seven Democratic governor not already listed above (Knowles, Chiles, Zell Miller, O'Bannon, Nelson, and Locke) We have made preliminary contact with these states, and encountered difficulties with a few. In Georgia, responsibility for deciding state testing policy lies with the chief state school officer, an elected Republican who is openly hostile to every form of federal involvement in education. Gov. O'Bannon has indicated that the timing is not right in Indiana for him to pursue participation in national tests. And Gov. Locke's office has sent Secretary Riley a letter indicating that Washington will not participate in the testing initiative, because they believe it will disrupt their own efforts. We have asked Gov. Locke to reconsider that position, and to indicate so in writing.
- **Republican States:** We believe that this bipartisan approach will be the most effective way to reach a number of large-state Republican governors, including Govs. Rowland,

Edgar, Carlson, and Ridge. We think it may be the only way we have of reaching out to Gov. Bush.

- **Unlikely States:** Finally, there are a number of states we think we are not likely to sign up unless there is a change of leadership or political climate. These include: Alabama, Arkansas, Idaho, Iowa, Mississippi, Oklahoma, South Carolina, and Virginia.

We have also been exploring the possibility of securing an NGA endorsement for the testing initiative. However, this may prove impossible, due to the opposition of Gov. Voinovich, the incoming chair. Despite the close overlap between his agenda for education reform and yours, in recent years Gov. Voinovich has generally opposed federal involvement in education (it took nearly a year to persuade him to support Ohio's participation in Goals 2000). In addition, there are two civil rights issues pending between the Department of Education and Ohio. While Secretary Riley and the Education Department are trying to resolve these issues in a cooperative fashion, they complicate our ability to reach out directly to the governor. We have also asked for the assistance of the Ohio Business Roundtable and CEO's such as John Pepper and Joe Gorman. However, we do not anticipate that this will produce quick results.

LOCAL PARTICIPATION

We are also trying to sign up a number of urban school districts, where the need for reform is greatest. Cities that sign up will also be asked to share with us and with their communities the steps they will take to help prepare students for these tests (in most cases, this will create opportunities for cities to highlight, enlist new support for, and integrate efforts already underway). This will underscore that your testing initiative is about preparing students to meet higher standards, not simply testing.

We have identified a pool of approximately 20 large city school districts in which we believe there will be strong interest in participating by the local superintendent, and by the mayors that are involved heavily in the local schools. The Council of Great City Schools has made preliminary contact with each of the superintendents; at least half a dozen expressed strong interest (Boston, Broward County FL, Cincinnati, Long Beach, Los Angeles, Philadelphia, and San Francisco), and we will follow up with all 20 superintendents over the next few weeks. We anticipate being ready to announce the cities that will participate by mid-July.

We are working to assemble a package of assistance we can provide to cities that commit to participate in the testing program. For example, the Education Department and the National Science Foundation are identifying technical assistance resources, models of effective practices, and discretionary funds that can be directed toward assisting the cities. Enterprise Zones may have funds that can be directed to assist participating schools. The Office of Bilingual Education is planning an outreach effort to involve the Hispanic community in support of reading and math, and this effort will be targeted to participating cities. America Reads can help mobilize reading tutors, and NSF will help identify local partners from the mathematics and scientific communities.

IV. CONGRESSIONAL INVOLVEMENT

As you know, Rep. Goodling has backed away from his earlier support for the testing initiative and has now signaled his opposition, including an attempt to add a rider to the supplemental appropriations bill that would have prohibited the Education Department from spending FY 97 funds on test development. If Goodling continues his opposition, we are likely to face a battle over continued funding for test development as part of the FY 1998 appropriations bill. If we can regain Mr. Goodling's support, we think it will be possible to assemble a bipartisan coalition that will ensure continued funding and the legislative authority we will need in the future.

At your request, Secretary Riley, along with Mike Cohen, met with Goodling this week, to explore his concerns. While no specific progress or commitments were made, Goodling's opposition softened over the course of the discussion. We will keep working on him.

Beyond Goodling and selected others on the Education and Economic Opportunities Committee, your national test initiative has received little attention from most members of Congress. Consequently, it is difficult to gauge the level of support we will receive if there is an appropriations battle.

We have launched a concerted effort to firm up Democratic support. First, the Education Department has begun to provide Members with information on the testing initiative on a targeted basis, starting with members from participating states. Second, we are identifying members who will actively promote the test, starting with the House. Reps. George Miller, Dale Kildee and Tim Roemer are especially strong supporters, and virtually every Democrat on the House Education and Economic Opportunities Committee starting with Clay can be counted on to support the testing initiative. In addition, Rep. Etheridge is preparing to introduce a sense of the House resolution in support of this initiative, and will work to secure broad support for it. On the Republican side, Reps. Frank Riggs and Mike Castle have been quite supportive. However, we suspect neither will want to split from Goodling on this issue if he remains firmly opposed.

V. CONSTITUENCY GROUP SUPPORT

We are working with the business groups that have endorsed your testing initiative (Business Roundtable, National Alliance of Business, Chamber of Commerce, as well as high-tech CEO's) to encourage governors to participate in the testing initiative, especially in the states we have targeted as most promising.

We are working with the AFT, which also supports the testing initiative, to encourage local union affiliates to support local district participation in the testing initiative. And we are working with the Council of Chief State School Officers to identify states that may be prepared to announce participation in the testing initiative.

We are working with other education groups to secure endorsements for the testing initiative.

The American Association of School Administrators and the National School Boards Association are likely sources of support. The national organizations representing elementary and secondary principals are also potential sources of support, though they historically have not supported the idea of national tests. We will be meeting shortly with Bob Chase to discuss how best to enlist NEA's support; as you know, NEA has also not traditionally been a strong supporter of national or state testing initiatives.

Several constituency groups have expressed serious concerns about the testing initiative, especially civil rights groups. In general, their concerns focus on issues of: (1) test bias and test fairness; (2) concern that the tests will be used for high stakes purposes; and (3) the difficulties Hispanic and other students with limited English proficiency will face on the 4th grade reading test if it is given only in English. Both White House and Education Department staff have met frequently with representatives of the civil rights groups, these discussions have not yet resulted in greater support for this initiative.

The national PTA organization has long been opposed to national tests. However, we believe strongly that parents ought to be among the strongest supporters of these tests. We have met with the incoming PTA president to discuss ways of building support for the testing initiative, and will be working with that organization and its leadership to generate parental enthusiasm for these tests.

VI. BUILDING SUPPORT AND SUSTAINING MOMENTUM

The idea of national standards and tests is quite popular -- with the public, parents, business leaders and, increasingly, with educators. But translating broad public support into specific state and local actions to participate in the tests is a challenge, since state and local officials have every incentive to continue existing testing programs rather than add a new one which will demonstrate low achievement levels in most education systems. Therefore, in addition to the strategies described above to "retail" the tests on a state-by-state, city-by-city, group-by-group approach, we need ways to focus broad public attention on the push for tests, and spur parents to apply public pressure at the state and local level. So far, the national press has shown little interest in the standards movement. It doesn't cost a lot of money, it doesn't involve a protracted legislative battle in Washington, it has bipartisan support, and it does not have an imminent deadline or obvious villain.

To maintain a high public profile on this issue, we will have to generate a sense of urgency and drama on our own -- and we should look for every chance we can to bypass the national press and appeal directly to parents, as you have done in your state legislative speeches and the West Virginia town meeting. We are looking at a variety of ways to raise the profile of this issue:

Creating a fight over the tests: At present there is no defining conflict over the tests in a way that would capture the interest of the press and the public, and raise the issue above the narrow confines of the policy community. This could change whether we want it to or not, especially if Goodling aggressively pursues his effort to use the appropriations process as a vehicle for stopping the development of the test. If so, we would have a clear battle over the test, and one

in which you could fight for basic skills, hard work and accountability.

We could also take the initiative to create a more visible fight over this initiative in the Congress in order to create a vehicle for mobilizing support for the tests. For example, we could transmit legislation requesting specific authority to develop and implement the tests, or to provide financial incentives for states to participate in the tests. Such a battle has some advantages -- it would attract press attention and could solidify Democratic support. But it has clear down sides as well. It may create uncertainty about whether we will be able to follow through on our commitment to develop the tests. In addition, a partisan, polarizing battle will make a number of Republican states harder to sign up.

Pushing the policy envelope on standards: We can also attract public attention and debate on standards and testing by promoting new initiatives tied directly or indirectly to the tests. We have been considering several possibilities:

- **Promoting “no social-promotion” policies** through steps such as developing guidelines for school districts. Chicago attracted enormous attention this week for requiring a quarter of its 8th graders to attend summer school before receiving their middle school diploma.
- **More vigorously promoting state and local intervention in failing schools**, through steps such as providing guidelines for state and local interventions or issuing new and tougher regulations for the interventions already required under Title I; providing new incentives for state and local efforts to close down failing schools by enabling them to use charter schools and community schools funds together, in order to reopen failed schools as charter schools that also stay open extended hours so that students can get tutoring and other forms of extra help.
- **Provide new financial aid for college to 6th graders in high poverty schools tied to meeting performance requirements.** As an alternative or complement to the proposal under consideration to provide a Pell Grant guarantee for elementary school graduates in high poverty schools, we could propose “education trust funds” for the same students, and provide \$500 - \$1,000 deposits tied to specific accomplishments, including graduating from elementary school, graduating from middle school, doing well on the national 8th grade math test, and graduating from high school. We could design this approach to fit with proposals for KidSave accounts currently under consideration. This approach would send a very powerful message to students -- and to the country -- that academic achievement counts and will be rewarded. We could also provide bonuses to school and/or teachers with high pass rates for Title I students.

A steady pace of events that focus on standards and tests: We are planning a number of events over the next few months to highlight your testing initiative for the public. We are also working with the Education Department on a major Back-to-Basics, Back-to-School initiative, which will provide several opportunities starting in August and continuing through the early Fall for you to highlight the testing initiative and your entire Call to Action.

Specific plans for June and July include:

- **The Vice President's Family Conference** The conference this year will focus on families and learning. During the conference, the Vice President will announce a fund being established by John Doerr (who organized the high tech CEO's who endorsed your testing initiative) to support reforms in schools participating in the testing initiative. This will also be an opportunity to announce Tennessee's participation in the tests.
- **America Reads Event in Boston, or a state sign-up event in the region.** You will be in Boston on June 30. We are working to develop an event either to highlight your America Reads initiative at an appropriate Read Boston site, or to travel to a nearby Northeastern state (the best prospects are Maine or New Hampshire) to announce its participation in the testing initiative. Either event could also focus on Work Study tutors, since new work-study funds will be available July 1 (Gov. King is a strong proponent of literacy programs; his youngest son went through Reading Recovery).
- **Launch of Education Excellence Partnership/ Major League Baseball Public Service Announcements on Standards** The Education Excellence Partnership (the Business Roundtable, the National Alliance of Business, the American Federation of Teachers, the National Governors' Association and the U.S. Department of Education) have joined with Major League Baseball to produce a series of PSA's that use baseball players to reinforce the value of raising academic standards. The fulfillment materials for the campaign encourage parents to find out if their school will be participating in the national testing program. The PSA's will be launched in early- to mid-July at an event at Camden Yards prior to an Orioles game. This is tentatively scheduled for July 2.
- **Multi-State Sign-Up Event** We anticipate holding an event in mid-July at the White House, to announce a handful of states pledging to participate in the testing initiative. (Alternatively, this could be our news for the NGA meeting).
- **Multi-City Sign-Up Event** We anticipate holding an event in mid July at the White House, to announce a handful of cities pledging to participate in the testing initiative.
- **Announcement of Interagency Math Strategy.** Prior to your speech to the Michigan legislature, you directed the Department of Education and the National Science Foundation to work with the DPC and OSTP to develop an interagency strategy to help States and local communities prepare students for the 8th grade math test. In line with this week's 4th grade TIMSS findings, the strategy will have a particular focus on improving middle school math. The strategy will address issues such as improving the knowledge and skills of teachers, expanding access to high quality instructional materials, maximizing the benefits of technology, and motivating students to take math seriously. The strategy will include recommendations for involving the math and science

community in these efforts. Announcement of this strategy could be combined with the state or city sign-up events.

- **NGA Meeting** You will be speaking to the NGA Annual Meeting on July 28. This will be an important opportunity to make case for the testing initiative directly to governors.
- **NCSL Meeting** NCSL's Annual Meeting will be held in early August. This would be an opportunity to continue the crusade you brought to three state legislatures in the Spring to legislators from every state. While few state legislatures are in a position to effectively initiate state involvement in your testing initiative, most are in a position to block it if they choose. Making the case for the testing initiative could be an important step toward clearing the path for state participation.

America Goes Back to School 1997

The Department of Education is planning the third annual America Goes Back to School effort, designed to encourage parents, community leaders, employers, employees, and other community members to become more actively involved in improving education in their communities. The effort spans August through October; last year, more than 2,000 local events occurred during this time period.

This year's effort is led by a broad-based steering committee chaired by Secretary Riley and co-chaired by Tipper Gore, former Governor Tom Kean, Michael Keaton, and Lois-Jean White, President of the National PTA. The campaign this year will be focused on your Call to Action. We are working with the Education Department and the Steering Committee to organize a series of local sign-up events, in which local schools and communities sign-up to respond to your call to action, including the testing initiative.

The Steering Committee is meeting this week to develop more specific plans and activities. After that, we will develop a more specific set of events appropriate for your participation. In addition, we expect that we will be asking for the entire Cabinet and others throughout the Administration to participate in high-profile Back-to-School events with a back-to-basics theme.

At present, we are considering the following as possible Back-to-School events for your involvement:

Nationally Televised Town Meeting on Education You have been invited to participate in a town hall meeting on education sponsored by PBS, which would be the culmination of a week-long series of shows devoted to education. The series will include one or two shows devoted specifically to standards. The town meeting would pose questions to you sent in by viewers in response to the first four shows. We can also organize one or more town meetings patterned after the one you recently did in Clarksburg West Virginia. You might also consider going back on the state legislative circuit.

Fifty-State Business Leaders Event We are working to organize a day in the fall when, in

each state, high-tech and other independent CEO's who are supporting your education efforts join with CEO's involved with long-standing business/education partnerships through organizations such as BRT, NAB, and the Chamber of Commerce, to support a common agenda of higher academic standards, employer efforts to review academic performance in hiring decisions, and a call for state participation in the national tests.

Together, these steps should keep us on track to our interim goal of signing up 20 or more states this year, with another 20 to follow in 1998. At some point, we may need your help in making direct retail appeal to individual governors. But the most important challenge is to keep finding ways to sell the public on the value of national tests and the urgency of raising standards.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ellen S. Seidman (CN=Ellen S. Seidman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:13-JUN-1997 18:18:23.00

SUBJECT: products memo draft

TO: Lisa M. Brown (CN=Lisa M. Brown/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

TO: Jennifer D. Dudley (CN=Jennifer D. Dudley/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Michael Deich (CN=Michael Deich/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Russell W. Horwitz (CN=Russell W. Horwitz/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

This is the last draft before I leave for the week. I think it reflects where we were as of the end of today's meeting. If you really need to reach me, signals knows how to do it, and I may also be reachable by e-mail, but had some trouble with the system this morning. ellen=====

TEXT:

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June __, 1997

MEMORANDUM FOR THE PRESIDENT

**FROM: Gene Sperling
Bruce Lindsey**

SUBJECT: Product liability legislation

I. ACTION FORCING EVENT: On May 1, on a strict party line vote, the Senate Commerce Committee reported out S.648, Senator Gorton's revision of the product liability bill you vetoed last year. Senator Rockefeller not only voted against S.648, but has made it very clear that he will not join until your concerns are satisfied, and Senator Gorton understands that without Senator Rockefeller's support, the bill cannot pass. On the other hand, Senator Lott has been pushing to bring the bill to the floor, leading Senator Rockefeller (together with Mr. Dingell) to press us to negotiate changes in the bill to meet your concern. They have suggested that if we are not ready to negotiate "soon," they will attempt to make the changes themselves, with no guarantee that you will, in fact, be satisfied. We believe Senator Lott can be held off until after the July 4 recess, but not much longer. Meanwhile, Senator Breaux is urging us to work with him on an alternative to the Gorton bill.

II. BACKGROUND: The 104th Congress passed product liability reform law -- a part of the Contract with America -- by a vote of 259 to 158 in the House and 59 to 40 in the Senate. On May 2, 1996, you vetoed the bill, citing eight issues:

- Interference with state prerogatives in tort law
- One-way preemption, where pro-consumer state laws were preempted, but laws that limited consumer rights were not
- The cap on punitive damages, particularly in light of the Statement of Managers, which virtually directed judges not to use the "additur" provision included in the bill under which caps could be superseded
- Several -- not joint -- liability for non-economic damages
- A too-short (15 years), too-broad (all products) statute of repose
- Preemption of state negligent entrustment statutes, which make sellers of dangerous goods (e.g., firearms and liquor) responsible for certain actions of the buyers
- Failure to toll the statute of limitations during the period of a stay issued by a bankruptcy court
- Application of the limits on liability of biomedical materials suppliers to negligent suppliers

The House failed to override your veto by a vote of 258 to 163 to override. The House having failed to override, the Senate never took a vote.

S.648 fixes the bankruptcy tolling problem, and makes an honest -- although not complete -- attempt to respond to the negligent entrustment issue. Moreover, it lengthens the statute of repose to 18 years, and establishes two-way preemption in that case, so that shorter state statutes (and all state statutes that are set in years are shorter) would be lengthened. However, the bill does not respond to the two major problems you cited -- the cap on punitives and several liability for non-economic damages -- nor does it change the biomedical materials provision.

Senator Rockefeller is clearly looking for guidance on how to resolve the punitives and non-economic damages issues to meet both the concerns and fact patterns in your veto message. However, he expects that once these issues are resolved, you will support the bill. Senator Breaux, on the other hand, would like to deal with this issue in an entirely different way, with a bill focused far more on reducing frivolous lawsuits and encouraging alternative dispute resolution. He would include a statute of repose that is more flexible than that in S.648, would establish uniform federal standards for punitives damages but no cap, and would do nothing to change state law concerning joint and several liability for non-economic damages.¹ It is unclear how far Senator Breaux can get in moving support off the Gorton bill without the Administration's support for his approach. Consumer groups and others are strongly opposed to any legislation in this area, and have stated they view you as "the last bastion against tort reform."

Over the past six weeks, we have jointly run an interagency process to consider whether there might be ways to alter S.648 to respond to the concerns in your veto message in a manner that could be potentially acceptable to at least Democratic proponents of the legislation. Participants in the process included: OVP, NEC, DPC, OMB, CEA, White House Counsel, White House Legislative Affairs, Justice, Treasury, Commerce, and SBA and the Consumer Product Safety Commission as an advisor. FDA is participating in the discussion of biomedical materials.

¹ As discussed below, many states, including California, already have several liability for non-economic damages.

We have surveyed the law in all the states on the critical issues of punitive damages, joint and several liability and statute of repose, and have developed a number of alternatives in each area that we believe move the bill closer (and in some cases, all the way) to your goals but may have a chance of not being rejected out of hand by proponents.² These issues, our analysis, our proposals, and our recommendations are discussed individually below.³ In general, we have requested guidance on a preferred proposal, and also on the extent to which we can negotiate. Our intention would be to try to negotiate first with Senator Rockefeller, but if that is a total failure within the parameters you lay out, we would open discussions with Senator Breaux.

While you did not ask us to go back to first principles and look at the Gorton bill as a whole -- in contrast to focusing on the items cited in the veto statement -- we think it important that you be aware that other portions of the bill may pose potential difficulty. In particular:

- In an attempt to preempt only portions of state law and procedure, it is possible the bill oversteps constitutional bounds with respect to federalism. We have asked OLC to consider this issue, but they will not render an opinion until they have had a chance to analyze the Supreme Court's upcoming opinion in the Brady bill case, which raises some of these same federalism issues.
- The bill's preemption language, which is meant to leave state law in place except where explicitly preempted, is unclear and needs to be revised. DOJ will develop language to deal with this, which we will offer the sponsors.
- The bill's treatment of "misuse or alteration" would in essence relieve a manufacturer or seller of responsibility for injury caused by foreseeable misuse of a product, such as using flammable cotton playwear for as sleepwear for children. The Consumer Product Safety Act makes provision for this eventuality. [We have had one discussion about how to deal with this issue, but have not yet reached an agreement.]

III. MAJOR ISSUES PRESENTED:

A. Joint and several liability for non-economic damages

Over the last several years, tort reform at the state level has essentially done away with the traditional rule of no comparative fault and full joint and several liability. (Only Alabama, Maryland, North Carolina and Virginia retain this combination.) Nine states⁴ have full joint and

² Based on discussions with the Center for Violence Policy, we have also crafted a more complete fix to the negligent entrustment provision. We believe there will be no problem getting the proponents to adopt this.

³ A sub-group consisting of DOJ, CPSC and FDA is working on the biomedical materials issue. They will report back within two weeks.

⁴ Arkansas, Delaware, Maine, Massachusetts, Michigan, Pennsylvania, Rhode Island, South Carolina and West Virginia

several liability, but include comparative fault, thereby reducing the defendants' joint responsibility by the measure of the plaintiff's responsibility. Thirteen states⁵ have pure several liability, for both economic and non-economic damages. 24 states have various hybrid forms, which are described in the attached Department of Justice memo. Note particularly that in California, defendants are only severally liable for non-economic damages.

Both last year's vetoed bill and S.648 limit a defendant's responsibility for non-economic damages "in direct proportion to the percentage of responsibility of the defendant for the harm to the claimant." The trier of fact is required to assign this percentage taking into account the responsibility of all persons responsible, including those not before the court, such as settling defendants. While the preemption is two-way, since the provision is less plaintiff-friendly than virtually any other formulation, two-way preemption is largely irrelevant.

In vetoing last year's bill with respect to this issue, you cited the provision's general effect of preventing "many persons from receiving full compensation for injury," noting in particular the problems created by insolvent defendants. You also cited the particular impact of a several rule for non-economic damages as unfairly discriminating against "the most vulnerable members of our society." You said, "Noneconomic damages are as real and as important to victims as economic damages."

The formulations described below reduce the negative impact of imposing several liability for non-economic damages. However, any formulation that does not guarantee the plaintiff 100% of non-economic damages (where there is any solvent and available defendant) is discriminatory against non-economic damages in those states that retain joint liability for economic damages. Assuming you do not want to put several liability for **economic** damages into play, you should be aware that all of the options described -- except pure reallocation -- have this flaw.

Informed by various state law provisions concerning joint and several liability, your advisors considered formulations for federal preemption involving the following concepts:

- Several liability with reallocation among remaining defendants (and plaintiff if the plaintiff is at fault) in the event the amount allocated to any defendant is uncollectible (thus guaranteeing plaintiffs 100% recovery for the portion of the damage not their fault, but sparing low-fault, deep-pocket defendants the need to sue for contribution)
- Setting a level of fault below which only several liability will apply (thus responding to the concerns of low-fault deep-pocket defendants)
- Setting a threshold of fault below which several liability will apply, but with a multiplier (thereby guaranteeing the plaintiff some recovery where only the low-fault defendants are solvent)
- Guaranteeing the plaintiff a specified percentage of recovery of non-economic damages

⁵ Alaska, Arizona, Colorado, Illinois, Indiana, Kansas, Kentucky, North Dakota, Tennessee, Utah, Vermont and Wyoming

- The extent to which plaintiff fault will be taken into account to reduce recovery for non-economic damages
- Special rules for small businesses, particularly as to responsibility for more than their share of damages
- Two-way preemption, which would be meaningful if federal law were less pro-plaintiff than some state laws

Working on the assumption that you wished us to develop proposals that include several liability for non-economic damages -- so as to be able to convince those favoring product liability of our good faith, but that are least restrictive of the rights of plaintiffs, your advisors developed the following alternative formulations relating only to non-economic damages:

Proposal 1 - Reallocation⁶

- Joint and several if the plaintiff is fault-free
- If the plaintiff is at all at fault, liability is several, but if the plaintiff cannot collect from one or more defendant after a specified period of time⁷, the plaintiff can petition the court for reallocation of damages not attributable to the plaintiff among the remaining defendants, but no defendant less at fault than the plaintiff may be charged with more than twice his proportionate share of damages
- This would be two-way preemptive

Pros

- Preserves balance between faultless plaintiff and defendant with any fault in favor of the plaintiff
- Is generally consistent -- or at least not less pro-plaintiff -- with the laws of most states⁸
- Where plaintiff is at fault, less culpable defendants -- even if they are deep pockets -- will have their damages limited
- Of all the potential limitations, is most likely to retain 100% recovery for non-economic damages
- By retaining joint and several liability in many situations, should encourage settlement

Cons

- May be viewed as excessively pro-plaintiff, and thus not a good-faith offer, particularly if it is two-way, thus increasing defendants' responsibility in states, such as California, with several liability for non-economic damages

⁶ This is based on the statute currently in effect in Missouri.

⁷ In Missouri it is 30 days, which may be too short to actually encourage the plaintiff to try to collect; in Connecticut it is one year, which may be too long.

⁸ Only plaintiffs with some degree of fault in the four states that retain traditional no comparative fault/joint and several liability would be significantly disadvantaged; plaintiffs in the nine states with comparative fault and joint and several liability could be somewhat disadvantaged. Plaintiffs in states with any further restrictions would likely benefit.

- May limit plaintiff's recovery where plaintiff is at fault and there are multiple defendants
- Requires fact-finders in (the 13) states that currently do not have comparative fault or several liability to assign degrees of responsibility
- Shifts from defendants to plaintiffs the responsibility for collecting from each defendant, potentially adding to delay in recovering and increased expense
- As among defendants, it is unclear why the extent of the plaintiff's responsibility should have an impact on defendants' responsibility to pay the judgment

Proposal 2A - Guaranteed recovery, two-way preemption

- Joint and several liability of any defendant is than 30% at fault (taking into account the fault of the plaintiff and settling defendants)
- If any defendant is less than 30% at fault, that defendant's responsibility would be limited to a maximum of twice the defendant's proportionate share of non-economic damages except where a greater multiplier was needed to ensure the plaintiff recovery of at least 50% of the assessed non-economic damages.

Proposal 2B - Guaranteed recovery, one-way preemption

- Joint and several liability of any defendant is than 10% at fault (taking into account the fault of the plaintiff and settling defendants)
- If any defendant is less than 10% at fault, that defendant's responsibility would be limited to a maximum of twice the defendant's proportionate share of non-economic damages except where a greater multiplier was needed to ensure the plaintiff recovery of at least 60% of the assessed non-economic damages.

Pros

- Should be seen by proponents of limitation as a good-faith offer, with real limits
- Preserves joint and several liability for defendants with significant degree of fault
- Ensures that no low-fault defendant will have to pay more than 50% (or 60%, if one-way) of total non-economic damages, and that in most cases they will be limited to their proportionate share
- Although it limits responsibility of low-fault defendants, it guarantees that plaintiff will collect substantial portion of assessed non-economic damages (if there are any solvent and available defendants)
- The two-way preemption version would increase plaintiff's guaranteed level of recovery in states with several liability for non-economic damages (such as California and Illinois), and thus might be considered an acceptable tradeoff for limitation on guaranteed recovery in other states

Cons

- Setting the guaranteed recovery level at 50% or 60% (or, in fact, any level lower than 100%) may be viewed as non-responsive to both the objections in the veto statement -- not full recovery, and discrimination against non-economic damages
- Will require fact-finders in the 13 states that don't have both comparative negligence and several liability to make additional determinations

- Defendants who view themselves as likely to be low-fault deep pockets will object that their potential for payment of non-economic damages is so high that they cannot take limitations into account in either settlement discussions or purchase of insurance
- Small degrees of differentiation of fault -- e.g., between 9% and 11% -- could have major repercussions on responsibility to pay damages

Your advisors recommend that proposal 1 be the first one we explore with proponents of product liability. It is by far the most consistent with the veto statement. If, however, it is rejected out of hand by product liability proponents, and you believe it is essential that we continue to negotiate, we would recommend Proposal 2A, which includes two-way preemption. We should make it very clear that if forced to one-way preemption, we would only accept a proposal with a significantly higher level of guaranteed recovery for the plaintiff (e.g., 60%), and a significantly lower threshold of for imposition of several liability (e.g., 10%).

Areas where we believe some negotiation could be possible include:

- Some decrease in the minimum level of recovery for two-way preemption (we would put an absolute floor at 50% for one-way preemption and 40% for two-way preemption)
- Some increase in the threshold for imposition of joint and several liability (we would put an absolute ceiling of 35% for two-way preemption and 15% for one-way preemption)
- Establishment of a limit on the liability of very small businesses (e.g., those with fewer than 10 employees) for amounts over their proportionate share of damages (we would suggest a limit of at least \$200,000). Your advisors do not recommend this option.

Decision - Joint and Several Liability for Non-Economic Damages

- _____ Offer proposal 1 only; come back for further instructions if that is rejected
- _____ Offer proposal 1, but be prepared to move to proposal 2A if necessary, with leeway to agree to a 40% minimum recovery level and a 35% threshold; come back for further instructions if this is insufficient; do not negotiate any one-way preemption or any small business limitation
- _____ Offer proposal 1, being prepared to move to proposal 2A and then 2B if necessary, within the parameters discussed above, including a small business limitation; keep me informed of progress
- _____ These are all unacceptable; let's discuss where we go from here

B. Punitive damages

The process of awarding punitive damages and the amount of such damages have been the subject of some of the most intense controversy, with manufacturers asserting that unpredictable

and unjustifiably large punitive damage awards have driven them out of markets and impinged on innovations, and consumer advocates asserting that only potentially unlimited punitive damages can deter harmful misconduct. Surveys suggest that neither the award of punitives nor the amount is skyrocketing in products cases.⁹

⁹ A soon-to-be-released Rand study has found an increase in the number and amount of punitive damage awards in financial fraud cases, such as cases involving insurance or financial products misrepresentation. This does not appear to extend to cases involving products as defined in the bill, which is limited to physical goods.

Both last year's vetoed bill and S.648 cap punitive damages -- at the **greater** of two times compensatories (including non-economic damages) or \$250,000 for most companies and the **lesser** of these two amounts for individuals and small businesses. Upon consideration of a list of eight factors¹⁰, a judge could award damages in excess of the large business cap (but not the small business cap), up to the amount awarded by the jury, which would not be informed of the cap.¹¹ The "additur" provision explicitly constitutes one-way preemption -- it does not permit additur where state law otherwise limits punitive damages.

The bills would also: (i) establish a uniform federal standard of proof of "clear and convincing"; (ii) establish a uniform standard for award that conduct "carried out with conscious, flagrant indifference to the rights or safety of others was the proximate cause" of the harm; and (iii) authorize any party to request that punitive damages be considered in a separate proceeding (generally so that evidence of the defendant's financial condition would not be allowed into evidence during the liability and compensatory damages phase of the trial). It appears these standards and procedural rules are meant to constitute two-way preemption, except that they would not permit punitive damages in states where such damages are not allowed.

In vetoing last year's bill, you stated that you "oppose arbitrary ceilings on punitive damages, because they endanger the safety of the public. Capping punitive damages undermines their very purpose, which is to punish and thereby deter egregious misconduct." You noted that the additur provision might have mitigated this concern, but the Statement of Managers virtually directing it not be used made it ineffective in that respect.

¹⁰ The factors are: "(i) the extent to which the defendant acted with actual malice; (ii) the likelihood that serious harm would arise from the conduct of the defendant; (iii) the degree of the awareness of the defendant of that likelihood; (iv) the profitability of the misconduct to the defendant; (v) the duration of the misconduct and any concurrent or subsequent concealment of the conduct by the defendant; (vi) the attitude and conduct of the defendant upon the discovery of the misconduct and whether the misconduct has terminated; (vii) the financial condition of the defendant; (viii) the cumulative deterrent effect of other losses, damages, and punishment suffered by the defendant as a result of the misconduct, reducing the amount of punitive damages on the basis of the economic impact and severity of all measures to which the defendant has been or may be subjected . . ."

¹¹ The judge would be required to hold a separate proceeding on awarding an additional amount, consider each of the items, and state the court's reasons for an award above the cap in findings of fact and conclusions of law. A separate finding on each factor is not explicitly required. The conference report on last year's bill, of course, virtually directed judges not to use this authority.

In considering alternative responses to the issue raised by the punitive damages cap, your advisors considered the present state of state law and likely trends. In seven states punitive damages are generally forbidden; in 16 others, they are capped in one way or another. Twenty-seven states allow unlimited punitive damages in product liability cases. Most states that allow punitive damages have adopted the "clear and convincing" evidentiary standard. While the liability standards are less uniform, only a few states¹² allow the award of punitive damages for reckless behavior without some other aggravating factor. We have not found any state that requires that the conduct leading to the punitive damages be the "proximate cause" of the plaintiff's harm, although the words "cause" and "result" are used. Bifurcated trials -- at least on the issue of the defendant's financial condition -- are allowed or required in 15 states.

The factors your advisors considered in developing alternatives were:

- Maintaining the quasi-criminal role of punitive damages to punish and deter egregious conduct
- Whether there are ways to reduce the perception that such damages are awarded capriciously and without uniform standards
- How to reduce the "windfall" nature of the award of punitives while retaining an incentive for plaintiffs to press for punitives in appropriate cases
- Whether a limitation on punitive damages payable by small businesses is appropriate, even if a broader cap is not, and if so, how it should be structured
- The effect of provisions allowing judges to override caps
- Whether preemption should be one-way or two-way

Your advisors have developed four alternatives.

Proposal 1 - Procedural changes, coupled with a breachable cap for small businesses

- Support the provisions in S.648 providing for uniform federal standards of clear and convincing evidence and the right to request bifurcation.
- Support a uniform federal liability standard for punitive damages that would not include recklessness, but (i) would not require that the conduct that is the subject of the punitive damages is the "proximate cause" of the plaintiff's harm and (ii) would explicitly permit circumstantial evidence of intent or malice.
- Cap punitive damages at the lesser of twice compensatories or \$250,000 for firms that have 10 or fewer employees **and** annual revenues of \$1 million or less. The jury would not be told of the cap, and the judge could award damages in excess of the cap (but only up to the amount awarded by the jury) upon a finding that the capped amount was "insufficient to punish or deter."
- This would be two-way preemption, except that it would not require states that currently do not allow punitive damages in products cases to allow such awards

Pros

¹² Alaska, Mississippi, Missouri, New York, Oklahoma, Vermont and West Virginia.

- By providing procedural uniformity, some of the concern about capriciousness in the award of punitive damages might be mitigated
- Consistent with both the law of most states and S.648 or earlier versions of products liability legislation
- Provides some protection for truly small businesses, responding to one of the complaints about the capriciousness of punitives
- Since businesses of the size described are rarely hit with significant punitive damages, since in most states the defendant's financial condition is already taken into consideration, there may be little practical negative effect.
- Unlikely to meet with serious opposition from any quarter (except those who favor no legislation at all)
- Allows the Administration to agree with some sort of cap

Cons

- Agreeing to any cap at all breaks through a clear line we established last year of "no caps on punitives"; it may be very difficult to hold the line against expansion of this cap, either to larger businesses, or by limiting the judge's discretion
- Will almost certainly not be sufficient to respond to large manufacturer concerns that have led to the demand for a cap on punitives, and thus may not be considered a good faith offer
- Federal direction of state court procedure may be more constitutionally vulnerable than imposition of federal rights and responsibilities.¹³

Proposal 2 - Allocation of punitive damages between plaintiff and state

- Authorize the jury to impose punitive damages without any cap on large businesses; small business punitives would be capped as in Proposal 1
- Vest the plaintiff in a 25% share of the total punitive damages, which amount will be assumed to include attorney's fees (i.e., no additional attorney's fees will be payable out of the punitive award)
- The remainder of the award would be payable to the state whose substantive law applies to the determination of punitive damages.
- States would be forbidden to intervene in the proceedings at any stage.
- Combine this with the procedural reforms outlined in Proposal 1
- This would be two-way preemptive except (i) it would not require states that do not allow punitive damages in products cases to allow such awards and (ii) states would explicitly be allowed to opt out of the allocation to the state, in which case prior state law with respect to caps and allocation would apply

Pros

¹³ In many respects, this is the issue pending before the Supreme Court in the Brady bill case. We will have a better idea of the likelihood these provisions could survive constitutional challenge after that decision comes down.

- Maintains the punitive and deterrent effect of punitive damages, enhancing their analogy to civil fines pursued by “private attorneys general”
- Gets rid of the windfall nature of punitive damages in excess of the plaintiff’s share, but the share should still be high enough to encourage plaintiffs to pursue punitives in appropriate cases
- Provides some limit on damages for small businesses
- Depending on state decisions of how to allocate funds, may make additional money available (although only on an intermittent and unpredictable basis) for civil access by indigents or consumer protection efforts
- Because damages available to individual plaintiffs (and contingent lawyer’s fees) are more restricted than the risk to the defendant, may encourage settlement
- Disallowing state intervention keeps transaction costs down and prevents situation in which state might want to discourage settlement because of the possibility of receiving punitive damages
- Protects the interest some states may have in not wanting to encourage award of punitive damages

Cons

- Would break through last year’s clear line concerning caps
- Does not respond to large manufacturers’ complaint about the risk of having to pay excessive damages, as the total amount is uncapped, and thus may not be seen as a good faith offer
- May have perverse effects if judges refuse remittitur or juries increase awards because part of the money is “going to a good cause”
- Needs to be carefully drafted to avoid constitutional “takings” problems; several state statutes providing that a portion of the award goes to the state have been struck down on this basis
- There may be no political constituency for this, as plaintiffs’ awards will be reduced and defendants’ awards (except for small businesses) will not be limited

Proposal 3 - Advisory jury opinion with judicial determination

- The jury would render a solely advisory opinion on punitive damages
- The actual determination of punitive damages would be made by the judge
- The judge would be required to consider the factors in S.648, and would be required to explain why the judge’s award differs (either higher or lower) from the jury’s advice
- Combine with procedural changes from proposal 1

Pros

- The lack of a cap is consistent with your prior position
- In analogous to criminal law, by keeping the jury involved, but placing the decision on what is essentially a punishment in the hands of the person most experienced in deciding such issues, the judge
- Since historically, punitive damage awards that seem unjustified have stemmed from jury decisions, may increase rationality in the system

- By adopting the S.648 factors, may be seen as a good faith offer, although it does not include a cap

Cons

- Takes away from the jury what has been regarded as a traditional jury function
- While judges may determine punitive damages in many states in cases where they are the trier of fact, only Connecticut and Kansas provide for initial judicial determination (in contrast to appellate review or remittitur) where a jury has sat
- Unlikely to solve concerns of either proponents or opponents of caps
- May raise difficult Seventh Amendment issues (“no fact tried by a jury shall be otherwise reexamined in any court of the United States than according to the rules of common law”)

Proposal 4 - Cap with easier breakthrough

- Cap punitive damages at the greater of \$250,000 or twice compensatories (the lesser of the two for small businesses)
- Do not tell the jury of the cap
- Allow the judge to award punitive damages above the cap (for both small and large businesses) without an additional proceeding and on a simple finding that the capped amount is “insufficient to punish or deter,” the standard in S.648, with no consideration of specified factors
- Insist that there be no legislative history suggesting this authority is to be used any more sparingly than implied by the statutory standard
- Couple this with the procedural changes described in proposal 1
- This would be two-way preemptive, except with respect to states that do not allow punitives in products cases at all

Pros

- Closest to both S.648 and earlier versions of bill, and thus likely to be most easily regarded as acceptable by proponents
- Particularly given that there are few punitive damage awards in excess of the cap and that judges now have remittitur authority, this would likely have little practical impact on actual awards
- The procedural changes may produce more uniformity across the country
- Making the additur provision two-way preemptive is a real improvement for plaintiffs compared to S.648

Cons

- This looks like a cap on punitive damages, which you said you opposed; “no caps on punitives” has been used as a shorthand description of the Administration’s firmest position
- It may actually be a cap with judges reluctant to award punitives
- Holding the line on the legislative history can be very difficult, particularly if the statute is acceptable in all other respects

Your advisors recommend proposal 1 be the first one we explore with proponents of the legislation. While proposal 2 responds to the part of the issue where defendants have the most

sympathetic case -- the windfall to plaintiffs and their attorneys -- and your advisors favor it as good public policy, it is complex and injects serious new issues into the discussion. On the other hand, we believe it is superior to the remaining two alternatives, and would suggest putting it on the table if proposal 1 is rejected. By moving beyond the concept of caps, proposal 2 may generate more serious discussion about what the issues really are and how to resolve them. Proposal 3 might be an easy compromise if people really want to move away from capping punitives, but want some protection against juries run wild. We would only put proposal 4 on the table as an absolute fall-back, although we realize there is a further fall-back: putting some of the factors back into the statute, although simply as things to consider.

Decision - Punitive Damages

- _____ Offer proposal 1 only, and then proposals 2 and 3, in that order; come back for further instructions if these are rejected
- _____ Offer proposal 1, and then proposals 2 and 3, in that order **but without any small business cap**; come back for further instructions if these are rejected
- _____ If proposals 1-3 are total non-starters, you are authorized to proceed to proposal 4 after discussing it with opponents of any product liability bill
- _____ Start with proposal 4
- _____ These are all unacceptable; let's discuss where we go from here

3. Statute of repose

At its starkest, a statute of repose bars litigation after a product has been in service a specified period of time. Twenty-two states and the District of Columbia currently have statutes of repose for product liability; 17 of the states and the District restrict lawsuits after a specified number of years (ranging from 5 to 15) and the remainder use some variation of "useful life" as the bar. In 1994, you signed legislation establishing a preemptive 18-year statute of repose for general aviation.

The bill you vetoed last year included a preemptive 15-year statute of repose for all products. The statute would, however, only have preempted states without any statute of repose, or with a statute **longer** than 15 years. Shorter state statutes would have remained effective. Your veto message referenced the length of the statute, the fact that it was broadly inclusive (you cited handguns), and the fact that the preemption was only one way. The Senate bill from the 104th Congress had covered only durable goods in the workplace and had an 18-year one-way preemptive statute.

S. 648, as reported out of the Senate Commerce Committee on a voice vote, includes a fully (two-way) preemptive 18-year statute of repose, covering all products except: (i) motor vehicles, vessels, aircraft and trains used to transport passengers for hire; (ii) products that cause toxic harm; and (iii) products with express written warranties that exceed 18 years.

Your advisors considered several alternative formulations of statutes of repose, with the main variables being:

- Whether any statute of repose would be “two way,” lengthening shorter statutes as well as imposing or shortening longer ones
- Whether there should be a bright line -- such as a number of years -- or a standard more linked to specific types of products -- such as “useful safe life”
- Whether any bright line would be rebuttable, and if so by what standard of proof
- The breadth of coverage, for example, all consumer products or only durable goods in the workplace
- Whether there should be exceptions, such as for toxic substances
- The relationship between the statute of repose and the statute of limitations

Working from the current version of S.648 and your veto message, we recommend the following formulation:

- Two-way preemption of state law (as in S.648)
- 18 year statute of repose (as in S.648)
- Which a plaintiff may overcome by clear and convincing evidence that the product had a longer useful safe life (not included in S.648, and responsive to the victim of the hay-baler accident cited in the veto message and to accidents involving products clearly intended to be longer-lived, such as elevators and most firearms)
- Covering only durable goods in the workplace (narrower than S.648, retaining plaintiff rights concerning consumer goods in states without any statute of repose and responding to your concern about handguns)
- With further exceptions for toxic substances, vehicles used in transportation for hire, and express warranties (as in S.648)
- And with a provision that extends the statute to allow full benefit of the two-year statute of limitations after injury or discovery of harm in, for example, year 17 (not in S.648, but not expected to be a problem)

Arguments for and against this formulation are:

Pros

- By building on S.648, demonstrates good faith to proponents of that legislation
- Two-way preemption is responsive to principles of veto message, and also lengthens statute in the 22 states that have them
- Number of years is longer than in any current state statute
- Rebuttable presumption protects workers injured by products clearly intended to be longer-lived

- Bright line number of years, combined with clear and convincing standard, means manufacturers will be free from arguments about whether something was intended to have a useful life slightly longer than 18 years
- By restricting statute to durable goods in the workplace, consumers in states without statutes of repose retain their access to court for injuries from long-lived or intermittently-used consumer goods such as cedar chests and camping and baby products
- Until late last year, all formulations of this statute had been limited to durable goods in the workplace, in part because those injured in such accident will at least have received some compensation through workers compensation
- Expands on an already-existing federal liability scheme -- workers compensation
- Exceptions protect access to court in latent defect cases

Cons

- Opponents of product liability reform will oppose any statute of repose as limiting plaintiffs' rights in states without such statutes
- Combination of two-way preemption and bright line (even with rebuttable presumption and limitation only to durable goods in the workplace), will restrict the access of some injured parties to court
- Proponents of S.648 may regard rebuttable presumption and limitation to durable goods in the workplace as unacceptable limitations, particularly given that they extended the statute from 15 to 18 years and made preemption two-way in response to the veto message

Although we believe the formulation proposed is both fair to plaintiffs and responsive to manufacturers, we suggest the following as room for negotiation, and request your authorization to allow negotiations within this framework:

- Reduction in time to not less than 15 years, if all other elements remain as in our proposal
- Expansion to consumer goods other than firearms, coupled with (i) a longer period of time and (ii) reduction in the burden of proof on "useful safe life" to "preponderance of the evidence"
- One-way preemption, as long as it does not affect any state with **no** statute of repose (which is consistent with our intention **not** to require states that do not currently allow punitive damages to authorize them)

Decision - Statute of Repose

- _____ Offer proposal as recommended above, with authorization to negotiate within parameters recommended
- _____ No negotiation permitted; come back to me with any and all counter-offers
- _____ I do not like this proposal. Let's discuss

IV. DECISIONS:

- _____ Go ahead with negotiations with Senator Rockefeller, based on the decisions above. Be prepared to trade among the three issues, with proposal 1 on joint and several the most important thing to try to get. Do not indicate our support for the bill as a whole until we've reviewed the entire package together.
- _____ I don't really think there is any way to square our differences with Senator Rockefeller. Please inform him of this, and start working with Senator Breaux.
- _____ We need to talk about this.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Michael Cohen (CN=Michael Cohen/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:13-JUN-1997 18:32:19.00

SUBJECT: Re: ed memo

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

In my youth, I was dying to know one who made that a true statement.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Diana Fortuna (CN=Diana Fortuna/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:13-JUN-1997 17:51:21.00

SUBJECT:

TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

----- Forwarded by Diana Fortuna/OPD/EOP on 06/13/97
05:51 PM -----

Diana Fortuna
06/13/97 05:41:28 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP
cc:
Subject:

According to APWA and Lyn Hogan (who heard it from Mickey Kaus), there is something bad for private welfare to work efforts in the Ed/Workforce bill. I'm still not clear on details, but according to Elaine Ryan it says that under TANF, states may not require welfare recipients to participate in private sector jobs, subsidized private sector jobs, or subsidized public sector jobs, "unless the recipient is compensated at the same rates, including periodic increases, as trainees or employees who are similarly situated in similar occupations by the same employer and who have similar training, experience and skills, and such rates shall be in accordance with applicable law. (Not clear what last phrase means; Elaine wonders if this is Davis-Bacon type stuff??)

Not clear to me how much this requires beyond current practice, but Elaine and Mickey Kaus think it's very bad. Lyn says AFSCME snuck it in, and Haskins was shocked when he heard about it after the fact.

On a second issue, Elaine raised an interesting criticism of Haskins' FLSA solution that may or may not be significant, depending on how extensively you think states will make use of the trainee exemption. She says his language mandates paying the minimum wage for trainees, which our position does not. Elaine is very much into finding a solution here by making sure the trainee option is wide enough. She thinks everyone's picture of workfare being ditch-digging is erroneously based on what Giuliani's doing, and that in fact states will create office workfare assignments that are closer to training. She just sent us a piece arguing that DOL created a big FLSA exemption for our school to work program by hanging their hat on the trainee exception, and thinks there is a precedent there.