

**NLWJC - KAGAN**

**EMAILS RECEIVED**

**ARMS - BOX 024 - FOLDER -002**

**[02/07/1998 - 02/10/1998]**

# Withdrawal/Redaction Sheet

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Jonathan Weber to Elena Kagan re: Satcher (1 page)	02/10/1998	P6/b(6)
002. email	Lowell Weiss to Elena Kagan re: AAAS Speech [partial] (1 page)	02/10/1998	P6/b(6)

**COLLECTION:**

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

**FOLDER TITLE:**

[02/07/1998 - 02/10/1998]

2009-1006-F  
 eh207

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

CREATION DATE/TIME: 7-FEB-1998 10:37:11.00

SUBJECT: Democratic Unity event

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:

At Elena's request, I talked to Ann Lewis about education paper for the Democratic Unity event. Sounds like we haven't actually achieved unity just yet.

Ann's understanding is that Gephardt's office volunteered to put the education paper together for this, and that we will see what they produce on Monday. In the meantime, I've sent Ann the piece that I did last week, so she has some idea of what our version of unity looks like.

I'm quite confident this will all come together sometime late Wednesday night.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Peter Rundlet ( CN=Peter Rundlet/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 9-FEB-1998 09:16:39.00

SUBJECT: Endorsement of Diversity in Higher Ed

TO: Michael Wenger ( CN=Michael Wenger/OU=PIR/O=EOP @ EOP [ PIR ] )

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Judith A. Winston ( CN=Judith A. Winston/OU=PIR/O=EOP @ EOP [ PIR ] )

READ:UNKNOWN

TO: Scott R. Palmer ( CN=Scott R. Palmer/OU=PIR/O=EOP @ EOP [ PIR ] )

READ:UNKNOWN

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

READ:UNKNOWN

TO: edley ( edley @ law.harvard.edu @ INET @ LNGTWY [ UNKNOWN ] )

READ:UNKNOWN

TO: Sylvia M. Mathews ( CN=Sylvia M. Mathews/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TEXT:

FYI -- The American Council on Education, together with dozens of other higher education organizations and associations, ran a 2/3 page endorsement of diversity in higher education in today's Washington Post, on page A9. It is a nice statement of support and it will be helpful to colleges and universities who seek to achieve diversity to further their educational objectives.



## **Welfare Reform and the President's 1999 Budget**

As the President said in his State of the Union address, we can be proud that after decades of finger-pointing and failure, we are now replacing welfare checks with paychecks. Welfare caseloads have fallen another 2.4 million in the first 13 months of the new welfare reform law, a decline of 4.3 million, or 30 percent, since President Clinton took office. The President's 1999 budget will build on this success, providing several targeted new tools to help even more people move from welfare to work, while restoring certain food stamp cuts which had nothing to do with welfare reform.

### **Welfare to Work Housing Vouchers**

The President's FY99 budget will take further steps to promote work and welfare reform through a new \$283 million plan to provide 50,000 new housing vouchers to welfare recipients who need housing assistance in order to get or keep a job. Families could use these housing vouchers to move closer to a new job, to reduce a long commute, or to secure more stable housing to eliminate emergencies that keep them from getting to work every day on time. These vouchers, awarded to communities on a competitive basis, will give people on welfare a new tool to make the transition to a job and succeed in the work place.

### **Welfare to Work Transportation**

One of the biggest barriers facing people who move from welfare to work -- in cities and in rural areas -- is finding transportation to get to jobs, training programs, and child care centers. Few welfare recipients own cars. Existing mass transit does not provide adequate links to many suburban jobs at all, or within a reasonable commute time. In addition, many entry level jobs require evening or weekend hours that are poorly served by existing transit routes. To help welfare recipients and other low income workers get to where the jobs are, President Clinton has proposed a \$100 million a year welfare to work transportation plan as part of his ISTEA reauthorization bill. This competitive grant program would assist states and localities in developing flexible transportation alternatives, such as van services.

### **Tax Credits for Employers**

The President's budget proposal extends two important tax credits for employers for an additional year. The Welfare to Work Tax Credit, enacted in the 1997 Balanced Budget Act, provides a credit equal to 35 percent of the first \$10,000 in wages in the first year of employment, and 50 percent of the first \$10,000 in wages in the second year, to encourage the hiring and retention of long term welfare recipients. The budget also extends the Work Opportunity Tax Credit, which provides a credit of up to \$2,400 for the first year of wages for eight groups of job seekers.

### **Food Stamps for Legal Immigrants:**

The President believes that legal immigrants should have the same opportunity, and bear the same responsibility, as other members of society. To that end, the President's 1999 budget proposes to restore Food Stamp benefits for vulnerable groups of legal immigrants. The President's proposals would provide Food Stamp benefits to 730,000 legal immigrants in 1999 at a cost of \$2.5 billion over 5 years. Specifically, benefits would be restored for: all families with children; immigrants with disabilities and elderly immigrants age 65 and older who entered the U.S. before welfare reform was enacted, on the same basis as the SSI and Medicaid restorations in the 1997 Balanced Budget Act; refugees and asylees, whose eligibility would be extended from 5 to 7 years; Hmong immigrants who came to the U.S. after the Vietnam war; and certain Native Americans living along the Canadian and Mexican borders.

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# CLINTON-GORE ACCOMPLISHMENTS

## REFORMING WELFARE

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*On August 22, 1996, President Clinton signed the Personal Responsibility and Work Opportunity Reconciliation Act, fulfilling his longtime commitment to 'end welfare as we know it.' As the President said upon signing, "... this legislation provides an historic opportunity to end welfare as we know it and transform our broken welfare system by promoting the fundamental values of work, responsibility, and family."*

### TRANSFORMING THE BROKEN WELFARE SYSTEM

- **Overhauling the Welfare System with the Personal Responsibility Act:** In 1996, the President signed a bipartisan welfare plan that is dramatically changing the nation's welfare system into one that requires work in exchange for time-limited assistance. The law contains strong work requirements, performance bonuses to reward states for moving welfare recipients into jobs and reducing illegitimacy, state maintenance of effort requirements, comprehensive child support enforcement, and supports for families moving from welfare to work -- including increased funding for child care and guaranteed medical coverage. State strategies are making a real difference in the success of welfare reform, specifically in job placement, child care and transportation.
- **Law Builds on the Administration's Welfare Reform Strategy:** Even before the Personal Responsibility Act became law, many states were well on their way to changing their welfare programs to jobs programs. By granting Federal waivers, the Clinton Administration allowed 43 states -- more than all previous Administrations combined -- to require work, time-limit assistance, make work pay, improve child support enforcement, and encourage parental responsibility. The vast majority of states have chosen to continue or build on their welfare demonstration projects approved by the Clinton Administration.
- **Largest Decline in the Welfare Rolls in History:** The President has announced that we've met -- two years ahead of schedule -- the challenge he made in last year's State of the Union to move two million more Americans off of welfare by the year 2000. New caseload numbers show that welfare caseloads fell by 4.3 million since President Clinton took office and 2.4 million in the first 13 months of the new law. The new figures, from September 1997, show 9.8 million Americans on welfare, a drop of more than 30 percent from January 1993. This historic decline occurred in response to the Administration's grants of Federal waivers to 43 states, the provisions of the new welfare reform law, and the strong economy.

## MOVING PEOPLE FROM WELFARE TO WORK

- **Mobilizing the Business Community:** At the President's urging, the Welfare to Work Partnership was launched in May 1997 to lead the national business effort to hire people from the welfare rolls. Founded with 105 participating businesses, the Partnership now has nearly 3,000 members. The Partnership provides technical assistance and support to businesses around the country, including: a toll-free number (1-888-USAJOB1), the Partnership's Web site ([www.welfaretowork.org](http://www.welfaretowork.org)) and a "Blueprint for Business" manual.

... **and Civic, Religious and Non-profit Groups:** The Vice President created the Welfare to Work Coalition to Sustain Success, a coalition of civic groups committed to helping former welfare recipients stay in the workforce and succeed. Tailoring their services to meet welfare recipients needs and the organizations' strengths, the Coalition will focus on providing mentoring and other support services. Charter members of the Coalition include: the Boys and Girls Clubs of America, the Baptist Joint Committee, the United Way, the YMCA, and other civic and faith-based groups.
- **Doing Our Fair Share with the Federal Government's Hiring Initiative:** Under the Clinton Administration, the Federal workforce is the smallest it has been in thirty years. Yet, this Administration also believes that the Federal government, as the nation's largest employer, must lead by example. The President asked the Vice President to oversee the Federal government's hiring initiative in which Federal agencies have committed to directly hire at least 10,000 welfare recipients in the next four years. Already, **the federal government has hired 2,400 welfare recipients.** As a part of this effort, the White House pledged, and has already hired, six welfare recipients.
- **\$3 Billion to Help Move More People from Welfare to Work:** Because of the President's leadership, the 1997 Balanced Budget Act included the total funding requested by the President for the creation of his \$3 billion welfare to work fund. This program will help states and local communities move long-term welfare recipients into lasting, unsubsidized jobs. These funds can be used for job creation, job placement and job retention efforts, including wage subsidies to private employers and other critical post-employment support services. The Department of Labor will provide oversight but most of the dollars will be placed, through the Private Industry Councils, in the hands of the localities who are on the front lines of the welfare reform effort. In addition, 25 percent of the funds will be awarded by the Department of Labor on a competitive basis to support innovative welfare to work projects.
- **Tax Credits for Employers:** The Welfare to Work Tax Credit, enacted in the 1997 Balanced Budget Act, provides a credit equal to 35 percent of the first \$10,000 in wages in the first year of employment, and 50 percent of the first \$10,000 in wages in the second year, to encourage the hiring and retention of long term welfare recipients. This credit complements the Work Opportunity Tax Credit, which provides a credit of up to \$2,400 for the first year of wages for eight groups of job seekers. The President's FY 1999 budget extends these two important tax credits for an additional year.

- **Welfare to Work Housing Vouchers:** In his FY 1999 budget, the President proposes \$283 million for 50,000 new housing vouchers for welfare recipients who need housing assistance to get or keep a job. Families could use these housing vouchers to move closer to a new job, to reduce a long commute, or to secure more stable housing to eliminate emergencies that keep them from getting to work every day on time. These vouchers, awarded to communities on a competitive basis, will give people on welfare a new tool to make the transition to a job and succeed in the work place.
- **Welfare to Work Transportation:** One of the biggest barriers facing people who move from welfare to work -- in cities and in rural areas -- is finding transportation to get to jobs, training programs and child care centers. **Few welfare recipients own cars. Existing mass transit does not provide adequate links to many suburban jobs at all, or within a reasonable commute time. In addition, many entry level jobs require evening or weekend hours that are poorly served by existing transit routes.** To help those on welfare get to their jobs, President Clinton has proposed a \$100 million a year welfare to work transportation plan as part of his ISTEA reauthorization bill. This competitive grant program would assist states and localities in developing flexible transportation alternatives, such as van services.

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## PROMOTING PERSONAL RESPONSIBILITY

- **Enforcing Child Support -- 63% Increase in Collections:** The Clinton Administration collected a record \$13 billion in child support in 1997 through tougher enforcement, an increase of \$5 billion, or 63% since 1992. Not only are collections up, but the number of families that are actually receiving child support has also increased. In 1997, the number of child support cases with collections rose to 4.2 million, an increase of 48% from 2.8 million in 1992. And paternity establishment, often the first crucial step in child support cases, has dramatically increased. In 1997, the number of paternities established or acknowledged rose to 1.1 million from 512,000 in 1992, an increase of 115%.

**Making Deadbeat Parents Pay:** The President's unprecedented and sustained campaign to make deadbeat parents pay is working. In addition to tougher enforcement including a strong partnership with states, President Clinton has taken executive action including: directing the Treasury Department to collect past-due child support from Federal payments including Federal income tax refunds and employee salaries; taking steps to Federal deny loans to any delinquent parents; issuing an executive order making the Federal government a model employer in the area of child support enforcement. The President also directed the Attorney General to submit legislation that strengthens the Child Support Recovery Act by prosecuting more parents who take egregious actions to avoid paying child support. And most significantly, the welfare reform law contains tough child support measures that President Clinton has long supported including: a national new hire reporting system; streamlined paternity establishment; uniform interstate child support laws; computerized state-wide collections; and tough new penalties. These five measures are projected to increase child support collections by an additional \$24 billion over the next ten years.

- **Breaking the Cycle of Dependency -- Preventing Teen Pregnancy:** Significant components of the President's comprehensive effort to reduce teen pregnancy became law when the President signed the 1996 Personal Responsibility Act. The law requires unmarried minor parents to stay in school and live at home or in a supervised setting; encourages "second chance homes" to provide teen parents with the skills and support they need; and provides \$50 million a year in new funding for state abstinence education activities. Since 1993, the Clinton Administration has supported innovative and promising teen pregnancy prevention strategies; HHS-supported programs already reach about 30 percent or 1,410 communities in the United States. As part of this effort, the National Campaign to Prevent Teen Pregnancy, a private nonprofit organization, was formed in response to the President's 1995 State of the Union. Notably, data shows we are making progress in reducing teen pregnancy -- teen births have fallen five years in a row, by 12 percent from 1991 to 1996.

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## RESTORING FAIRNESS AND PROTECTING THE MOST VULNERABLE

The President made a commitment to fix several provisions in the welfare reform law that had nothing to do with moving people from welfare to work. In 1997, the President fought for and ultimately was successful in ensuring that the Balanced Budget Act protects the most vulnerable. And now, with his 1999 budget, he's continuing the fight.

- **Protects Immigrants Who Become Disabled and Those Currently Receiving Benefits:** The Balanced Budget Act of 1997 restored \$11.5 billion in SSI and Medicaid benefits for legal immigrants. The new law protects those immigrants now receiving assistance, ensuring that they will not be turned out of their apartments or nursing homes or otherwise left destitute. And for immigrants already here but not receiving benefits, the BBA does not change the rules retroactively. Immigrants in the country as of August 22, 1996 but not receiving benefits at that time who subsequently become disabled will also be fully eligible for SSI and Medicaid benefits.
- **Helps People Who Want to Work but Can't Find a Job:** The Balanced Budget Act also restored \$1.5 billion in food stamp cuts. The welfare reform law restricted food stamps for able-bodied childless adults to only 3 out of every 36 months, unless they were working. This move ignored the fact that finding a job often takes time. The Balanced Budget Act provided funds for an estimated 235,000 work slots over 5 years and food stamp benefits to those who are willing to work but, through no fault of their own, have not yet found employment. In addition, the BBA allows states to exempt up to 15 percent of the food stamp recipients (70,000 individuals monthly) who would otherwise be denied benefits as a result of the "3 in 36" limit.
- **Food Stamps for Legal Immigrants:** The President's 1999 budget proposes to restore Food Stamp benefits for vulnerable groups of legal immigrants. **The President's proposals would provide Food Stamp benefits to 730,000 legal immigrants in 1999 at a cost of \$2.5 billion over 5 years. Specifically, benefits would be restored for: all families with children; immigrants with disabilities and elderly immigrants age 65 and older who entered the U.S. before welfare reform was enacted, on the same basis as the SSI and Medicaid restorations in the 1997 Balanced Budget Act; refugees and asylees, whose eligibility would be extended from 5 to 7 years; Hmong immigrants who came to the U.S. after the Vietnam war; and certain Native Americans living along the Canadian and Mexican borders.**
- **Protects Children by Keeping the Medicaid Guarantee:** The Balanced Budget Act preserved the Federal guarantee of Medicaid coverage for the vulnerable populations who depend on it, and contains additional investments to extend coverage to uninsured children. It also ensures that 30,000 disabled children losing SSI because of the new tighter eligibility criteria keep their Medicaid coverage. The President's 1999 budget proposes to provide States the option to provide health care coverage through Medicaid and the Children's Health Insurance Program (CHIP) for legal immigrant children, regardless of when they entered the U.S.

2/9/98

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 9-FEB-1998 14:42:43.00

SUBJECT: Coverdell

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:

Shireman tells me that Gene and Erskine spoke to POTUS about Coverdell, and his decision is to maintain our previous position--a clear veto threat.

NEC is notifying Treasury, and asking Rubin to make some calls to committee Dems before mark-up. I've talked to Education. Barbara Chow is putting a Riley/Rubin letter they had been sitting on into the system for quick clearance and release.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Kevin S. Moran ( CN=Kevin S. Moran/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 9-FEB-1998 12:33:06.00

SUBJECT: Daily Message Calendar for 2/9 - 2/15

TO: Elliot J. Diringner ( CN=Elliot J. Diringner/OU=CEQ/O=EOP @ EOP [ CEQ ] )  
READ:UNKNOWN

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

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

TO: Nicholas R. Baldick ( CN=Nicholas R. Baldick/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

TO: Jennifer N. Devlin ( CN=Jennifer N. Devlin/O=OVP @ OVP [ UNKNOWN ] )  
READ:UNKNOWN

TO: Kathleen A. McGinty ( CN=Kathleen A. McGinty/OU=CEQ/O=EOP @ EOP [ CEQ ] )  
READ:UNKNOWN

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

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

TO: Victoria Radd ( CN=Victoria Radd/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: Dan K. Rosenthal ( CN=Dan K. Rosenthal/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Laura A. Graham ( CN=Laura A. Graham/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

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

TO: Amy W. Tobe ( CN=Amy W. Tobe/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Claire Gonzales ( CN=Claire Gonzales/OU=PIR/O=EOP @ EOP [ PIR ] )

READ:UNKNOWN

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

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

TO: Jonathan A. Kaplan ( CN=Jonathan A. Kaplan/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Gene B. Sperling ( CN=Gene B. Sperling/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Jeffrey A. Forbes ( CN=Jeffrey A. Forbes/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

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

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

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

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

TO: Thurgood Marshall Jr ( CN=Thurgood Marshall Jr/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Roberta W. Greene ( CN=Roberta W. Greene/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Eli G. Attie ( CN=Eli G. Attie/O=OVP @ OVP [ UNKNOWN ] )  
READ:UNKNOWN

TO: Ron Klain ( CN=Ron Klain/O=OVP @ OVP [ UNKNOWN ] )  
READ:UNKNOWN

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

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

TO: John Podesta ( CN=John Podesta/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

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

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

TO: VINCA S (Pager) #LAFLEUR ( VINCA S (Pager) #LAFLEUR [ UNKNOWN ] )  
READ:UNKNOWN

TO: LEAVY\_D ( LEAVY\_D @ A1 @ CD @ LNGTWY [ UNKNOWN ] ) (NSC)  
READ:UNKNOWN

TO: Lowell A. Weiss ( CN=Lowell A. Weiss/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

TO: Ruby Shamir ( CN=Ruby Shamir/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: Paul E. Begala ( CN=Paul E. Begala/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

TO: Kris M Balderston ( CN=Kris M Balderston/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

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

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

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

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

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

TO: Karen Tramontano ( CN=Karen Tramontano/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

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

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

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

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

TO: Nanda Chitre ( CN=Nanda Chitre/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: Michael D. McCurry ( CN=Michael D. McCurry/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Judith A. Winston ( CN=Judith A. Winston/OU=PIR/O=EOP @ EOP [ PIR ] )  
READ:UNKNOWN

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

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

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

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

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

TO: Cecily C. Williams ( CN=Cecily C. Williams/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

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

TO: Stephen B. Silverman ( CN=Stephen B. Silverman/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

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

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

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

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

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

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

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

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

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

TO: Antony J. Blinken ( CN=Antony J. Blinken/OU=NSC/O=EOP @ EOP [ NSC ] )  
READ:UNKNOWN

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

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

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

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

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

TEXT:

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

TEXT:

Unable to convert ARMS\_EXT: [ATTACH.D58]MAIL439474933.026 to ASCII,  
The following is a HEX DUMP:

FF575043BE050000010A020100000002050000005F130000000200001408DA1C349AF887BBB4BD  
7C8844FFA8FF52AFF7CAB9E3C6C35DBCDF3DBAE73B5C746F7E51F3AA965D774921196705616B6D  
B67DF19D8CAF2A8F22CFF6A47A7211C08E9DA3DF9CB399F0D5C1168E7C4D70AED7D33DAC54702B  
ACA88898C3768EEBE41AE8172FC3A8003EDA876266B7E7C98ACE4CF4B7B679AF9BF3A45A1A80C9  
5E9C91712C37F8EF346CEC146E10559267314DFCE790A7B7E9323FE81DB3BBB55AE86F66A9858F

**THE WEEK AHEAD**  
**February 9 - 15**  
*(All items are subject to change.)*

**Monday (2/9):** President Clinton will speak at Georgetown University renewing his call for Americans to join him in a national discussion on how to best strengthen the Social Security system for the 21st century. During his remarks the President will announce that he will participate in the first of a series of non-partisan forums to discuss Social Security reform in April in Kansas City, MO.

**Tuesday (2/10):** President Clinton will report on the strength of the economy following the release of the most recent economic report. Message for the day, "Wages are up and taxes are down."

**Wednesday (2/11):** President Clinton will attend a NATO expansion event at the State Department. During the event he will sign a letter of transmittal that accompanies the three NATO extension protocols (for **Hungary, the Czech Republic and Poland**) that are being sent to Congress for ratification. Later, the President will attend the Ron Brown Awards Ceremony recognizing corporate leadership. The President will also attend the first White House Millennium Evening, where **Professor Bernard Bailyn will address some of the core American ideas that crystallized during the Revolutionary Era, that have shaped our history thereafter, and that must be preserved as we move into a new millennium.**

**Thursday (2/12):** President Clinton will attend a Democratic Unity event with Congressional Democrats to prioritize a number of the major issues and agenda items they will be working for this year.

**Friday (2/13):** The President will address the American Association for the Advancement of Science to discuss his science and research priorities. Among the subjects the President will focus on are public health, tobacco, and his proposed 21st Century Research Fund.

**Saturday (2/14):** President Clinton's weekly Radio Address will be broadcast; the topic will be on drug policy report. (T)

**Sunday (2/15):** No message event scheduled.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 9-FEB-1998 11:57:52.00

SUBJECT: NGA Roundtable

TO: Robert M. Shireman ( CN=Robert M. Shireman/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

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

TO: Jennifer L. Klein ( CN=Jennifer L. Klein/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

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

TO: Christopher C. Jennings ( CN=Christopher C. Jennings/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Paul J. Weinstein Jr. ( CN=Paul J. Weinstein Jr./OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

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

TO: Nicole R. Rabner ( CN=Nicole R. Rabner/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Jonathan A. Kaplan ( CN=Jonathan A. Kaplan/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

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

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

CC: Sky Gallegos ( CN=Sky Gallegos/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TEXT:

Its that time again! On Monday, February 23, 1998, the President will convene the yearly NGA Roundtable with the Governors. I have a preliminary list of the subjects the Governors will address, and will have confirmation on the topics this week. I do not expect them to change. For those of you who are new to this, the drill is: after the opening statements (open press), the press departs, and one Governor will introduce each topic (total of 4-5 Govs, Child Care and Education may be one topic area), followed by open discussion.

Topics are:

Highways: Robyn

Tobacco: Kagan/Jennings

Child Care: Klein

Education: Cohen/Shireman

Health Care Quality: Jennings

For each topic, I would like two pages: one page with talking points for POTUS (brief) and questions to ask Govs to keep the discussion moving; and one page with the most difficult q's and a's. Please send these to me no later than FIRST THING Tuesday, February 17, 1998.

Thanks for your help.



FEBRUARY 7, 1998

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MEMORANDUM FOR THE PRESIDENT

FROM: GENE SPERLING  
BRUCE REED  
LARRY STEIN

RE: STRATEGY ON COVERDELL EDUCATION IRA PROPOSAL

The Senate Finance Committee is scheduled to mark-up the Coverdell Education IRA proposal on Tuesday, February 10, 1998. A group of your advisors, including Secretaries Rubin and Riley, met with Erskine Friday to discuss our legislative strategy. This memorandum lays out the current situation, several options, and the recommendations of your economic team.

**Background:**

Senator Coverdell's proposal would expand the existing education IRA in two ways. First, it would broaden the accounts to allow for distributions to pay for **educational expenses, including tuition, at private elementary and secondary schools. Currently the accounts are limited to higher education.** Second, it would raise the contribution limit from \$500 to \$2,000 annually.

**Senator Coverdell's proposal is objectionable on policy grounds for two key reasons. It provides for tax-side subsidy for private schools, and, thereby, diverts scarce resources from public schools. In this respect, the proposal can be viewed as a back-door voucher. Secondly, the tax benefits are heavily skewed to people with high incomes, 70 percent of the benefits flow to the top 20 percent of families.**

**For these reasons, as you will recall, you sent a strong letter to the Congressional Leadership on July 29, 1997, that stated your opposition to the Coverdell proposal and your intention to veto the entire budget bill if it were included (The Republicans had asked for the letter as a condition of removing the Coverdell provision from the bill).**

**Last fall the House passed the Coverdell proposal by a vote of 230-198. During House consideration, Secretary Riley and Secretary Rubin underscored the Administration's opposition with a joint letter that opposed the provision on both education and tax policy grounds. This bill died in the Senate as a result of a successful filibuster effort led by Senator Kennedy. After the Senate vote, Senator Daschle publicly warned that the**

filibuster might not hold this year and there is a uncertainty among some Democrats of how strong our veto resolve is on this issue.

#### **Current Situation**

The Coverdell proposal remains a top item on the Republican agenda and they are trying to move it quickly. Chairman Roth and Majority Leader Lott are pursuing a strategy of garnering support for Coverdell in return for the inclusion of pet proposals (education only) of the members on the Committee. That strategy appears to be working. For Senator Graham, a provision providing tax-free treatment for withdrawals from state pre-paid tuition plans will be added to the Chairman's mark. Apparently for Senator Moynihan, favorable tax treatment for employer provided educational assistance is extended both in time and coverage to include graduate education, as we do in our budget.

Add Senator Breaux, who has supported Coverdell previously, and even with less than enthusiastic Republican, Senator Chafee, the bill looks like it could come out of Committee with a strong vote.

Despite attempts by Senator Moseley-Braun, school construction is not currently included, though discussions are continuing over the weekend. Sen. Moseley-Braun's staff has indicated that she would probably vote for Coverdell if it included a school construction proposal worth at least \$3 billion or so over five years (the Administration proposal is \$5 billion). You will recall that Senator Lott has been a strong opponent of school construction in the past.

#### **Options**

In our meeting, we discussed the following strategy options: 1) stick to our very strong veto threat. 2) Continue the veto threat, but encourage Democrats to add school construction and other items for a possible ultimate deal.

#### **Option 1:**

Under this strategy option, we would stick very strongly to our veto threat with the full intention of vetoing any bill that includes the Coverdell proposal, just as we have done to date. We would not encourage Democrats, to the extent possible, from adding proposals that we support.

#### **Pros:**

- Consistent with the position you took in your letter to the Congressional leadership during the Balanced Budget Agreement negotiations.
- Satisfies public school advocates concerned about vouchers.
- Appears sustainable at least in House (though possibly not in the Senate). There are apparently 8-12 wavering Senate Democrats. Both the House and Senate dynamic could possibly change to the extent something very attractive gets added, such as a robust school construction provision.

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- **Can reassess later if dynamics change, or if veto-proof majority begins to emerge.**

**Cons:**

- **Minority Leader Daschle and other Democrats have signaled that they may not stick with their position last year opposing Coverdell. The bill could come out of Finance with an overwhelming vote.**
- **Lose opportunity for possible progress on school construction.**
- **Republicans continue to have a popular issue to criticize us on.**

**Option 2:**

**Under this strategy, we would stick to our veto threat, but we would encourage Democrats to add provisions that we support, such as school construction. Depending on how much success Democrats have, down the road we would either engage in negotiations to add more of our proposals or we would stick to our veto threat.**

**Pros:**

- **An opportunity to achieve a success on school construction.**
- **Robs Republicans of an issue, while forcing them to cave in on school construction.**

**Cons:**

- **Would be portrayed as a flip-flop, perhaps affecting credibility of future veto threats.**
- **May contribute to “slippery slope” on school vouchers, as public school advocates fear.**
- **Would be strongly criticized by public education supporters, even if it includes a substantial school construction investment.**

**Recommendation:**

**All of your advisors agree that Coverdell is bad public policy. Proponents of Coverdell intend for this to be a first step towards vouchers. Moreover, the tax benefits disproportionately benefit high income people.**

**Some of your advisors believe that switching will be seen as moving away from a principled position. Others, however, point out the potential for an education bill moving through**

Congress with possible strong momentum and including several attractive components, including pre-paid tuition plan provisions, enhanced employer provided education benefits, and perhaps school construction. It would be difficult to make an effective public case against such a bill. An IRA does not strike people as a voucher, plus people understand IRAs and they like them. The public case against a bill becomes that much harder to the extent provisions are included that help public schools, such as school construction.

While some of your advisors believe that we will need to continue to re-assess our position as events unfold, and some felt we should never move off our current position, it is the consensus view of your advisors that there is nothing to be gained from moving off of your strong veto threat now. It is also agreed that, we should not, at least for now, encourage Democrats to try to load up the bill with attractive items, while recognizing that Finance Committee Democrats will do some of this on their own. Rather, we can encourage Democrats to offer a proposal as a *substitute* for Coverdell when the bill goes to the Senate floor.

_____ Recommended Option	_____ Option 2
___ Discuss	
Strong Veto Threat	Strong Veto Threat
Encourage Democratic	Encourage Democrats
Substitutes	To Add to Coverdell

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Thomas L. Freedman ( CN=Thomas L. Freedman/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME: 9-FEB-1998 15:00:55.00

SUBJECT: OSHA & hearing

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

READ:UNKNOWN

CC: Mary L. Smith ( CN=Mary L. Smith/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TEXT:

The Dems have invited OSHA to testify on enviro smoke at Jefford's 2/24 hearing. OSHA is ok with testifying -- they generally like the direction of the Conrad bill. Their cautions are that we might be negotiating something and don't want to get pinned down on a position prematurely or that they will get asked about Indoor Air Quality (IAQ) regulations generally. OSHA doesn't expect the R's to invite them, so if we tell the Ds not to, it probably wouldn't be missed according to Emily.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Julie A. Fernandes ( CN=Julie A. Fernandes/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME: 9-FEB-1998 19:16:45.00

SUBJECT: EEOC rule

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:

Danny Werfel from OMB called to let me know that Sylvia wants Ellen Vargyas (from EEOC) to brief Judy Winston and Ben Johnson on the federal sector rule before we publish it. She may also be interested in doing some kind of roll-out of the rule linked to the PIR. Because of all this, the rule will likely be delayed at least a week. I will let you know more as I do.

Julie

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ingrid M. Schroeder ( CN=Ingrid M. Schroeder/OU=OMB/O=EOP [ OMB ] )

CREATION DATE/TIME: 9-FEB-1998 14:20:21.00

SUBJECT: HEADS UP - Justice Tobacco Liability Testimony

TO: Lisa M. Kountoupes ( CN=Lisa M. Kountoupes/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

TO: Bruce R. Lindsey ( CN=Bruce R. Lindsey/OU=WHO/O=EOP@EOP. shuffield @ inet [ WHO ] )  
READ:UNKNOWN

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

TO: Robert J. Pellicci ( CN=Robert J. Pellicci/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

TO: James C. Murr ( CN=James C. Murr/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

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

TO: Donald R. Arbuckle ( CN=Donald R. Arbuckle/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

TO: Barry T. Clendenin ( CN=Barry T. Clendenin/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

TO: David J. Haun ( CN=David J. Haun/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

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

TO: Thomas L. Freedman ( CN=Thomas L. Freedman/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TO: Sarah A. Bianchi ( CN=Sarah A. Bianchi/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

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

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

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

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

TO: Ronald K. Peterson ( CN=Ronald K. Peterson/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

TO: Janet R. Forsgren ( CN=Janet R. Forsgren/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

TO: Mark A. Weatherly ( CN=Mark A. Weatherly/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

TO: Robert G. Damus ( CN=Robert G. Damus/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

TO: Richard J. Turman ( CN=Richard J. Turman/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

TO: Kenneth L. Schwartz ( CN=Kenneth L. Schwartz/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

TO: Donald H. Gips ( CN=Donald H. Gips/O=OVP@OVP [ UNKNOWN ] )  
READ:UNKNOWN

TO: Sherman G. Boone ( CN=Sherman G. Boone/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

TO: Jerold R. Mande ( CN=Jerold R. Mande/OU=OSTP/O=EOP@EOP [ OSTP ] )  
READ:UNKNOWN

TO: Christopher C. Jennings ( CN=Christopher C. Jennings/OU=OPD/O=EOP@EOP [ OPD ] )  
READ:UNKNOWN

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

TO: Jacob J. Lew ( CN=Jacob J. Lew/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

CC: James J. Jukes ( CN=James J. Jukes/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

TEXT:

You should have received (or will shortly) a copy of the Justice testimony for the Tuesday (2/10) S. Judiciary hearing on tobacco liability and advertising (First Amendment) issues.

The discussion of the liability issue is similar to the testimony which was cleared last week on this issue (all the new sections have been marked). The discussion of the advertising issue (pp.1-13) is all new.

Comments are due to LRD by 4:30pm Today, Monday, February 9th. If you have not received the testimony please call me at ext. 53883.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-FEB-1998 15:53:19.00

SUBJECT: Sr. Staff Coverage for President's Day

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

READ:UNKNOWN

TO: Christopher C. Jennings ( CN=Christopher C. Jennings/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: Cathy R. Mays ( CN=Cathy R. Mays/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

CC: Donna L. Geisbert ( CN=Donna L. Geisbert/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TEXT:

Please let me know if you will be out of town. thanks!!!

----- Forwarded by Laura Emmett/WHO/EOP on 02/10/98 03:52 PM -----

Dominique L. Cano  
02/10/98 03:50:15 PM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: Sr. Staff Coverage for President's Day

The Chief of Staff's Office has asked for a list of all senior staff (AP's & DAP's only) detailing who will and will not be in this Monday (2/16), President's Day.

Please submit the name(s) of senior staff, designating whether they will be in or out, and a contact number if they are not available through Signal.

Please submit this information by 1:00 p.m. on Thursday. If you have any questions, please do not hesitate to call me at (6-2025).

Thank you.

Message Sent

To:

- 
- Lori L. Anderson/WHO/EOP
  - Carolyn E. Cleveland/WHO/EOP
  - Cynthia M. Jasso-Rotunno/WHO/EOP
  - Ruby Shamir/WHO/EOP

Mary Morrison/WHO/EOP  
Stacey L. Rubin/WHO/EOP  
Lisa J. Levin/WHO/EOP  
Marjorie Tarmey/WHO/EOP  
Laura Emmett/WHO/EOP  
Gay L. Joshlyn/OPD/EOP  
Patricia A. McHugh/WHO/EOP  
Virginia N. Rustique/WHO/EOP  
Edward F. Hughes/WHO/EOP  
Suzanne Dale/WHO/EOP  
Betty W. Currie/WHO/EOP  
Miriam H. Vogel/WHO/EOP  
Demond T. Martin/WHO/EOP  
Carole A. Parmelee/WHO/EOP  
Jason S. Goldberg/WHO/EOP  
Ana M. Duque/WHO/EOP  
Huma M. Abedin/WHO/EOP  
Scott R. Hynes/OVP @ OVP  
CEARLEY\_V @ A1 @ CD @ LNWTWY  
Brian A. Alcorn/WHO/EOP  
Jonathan E. Smith/WHO/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Thomas L. Freedman ( CN=Thomas L. Freedman/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:10-FEB-1998 15:26:31.00

SUBJECT: Call to Harkin

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:

FYI

----- Forwarded by Thomas L. Freedman/OPD/EOP on 02/10/98  
03:26 PM -----

Toby Donenfeld @ OVP  
02/10/98 03:26:50 PM  
Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: Call to Harkin

The VP just spoke to Senator Harkin. Unfortunately, two minutes before the VP got back Harkin had called the VP, but he did call right back. It was a good call and the VP was totally on message.

Harkin expressed the concerns we expected him to raise and the VP told him that he wasn't going to endorse Conrad's bill, that he would support Conrad's bill and any other that included the President's five principles. He told Harkin that he would participate in an event w/ Harkin and others when they intro their bill. He told Harkin that he would take his suggestion and say that "whatever passes has to be a good, strong, bipartisan effort." (I think we have that language already in his speech).

Anyway, that's it. Thanks Bruce for your help.

Message Sent

To:

---

Donald H. Gips/OVP @ OVP  
Kay Casstevens/OVP @ OVP  
David R Thomas/OVP @ OVP  
Ron Klain/OVP @ OVP  
Bruce N. Reed/OPD/EOP  
Thomas L. Freedman/OPD/EOP  
Jerold R. Mande/OSTP/EOP  
Eli G. Attie/OVP @ OVP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-FEB-1998 13:30:17.00

SUBJECT: Ellen Lovell and non-profits

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

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

TEXT:

Ellen Lovell wants to include us more in the millenium project. She seemed particularly eager for someone to take part in a symposium put on by Getty or some such in late April on non-profits. I can't go. I wondered if either one of you were interested, both on the forum and on the millennium question. As the President likes to say, it only happens once every thousand years.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Thomas L. Freedman ( CN=Thomas L. Freedman/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:10-FEB-1998 13:37:34.00

SUBJECT: Slightly revised VP tobacco remarks -- including changes from today's meet

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:

FYI.

----- Forwarded by Thomas L. Freedman/OPD/EOP on 02/10/98  
01:37 PM -----

Eli G. Attie @ OVP

02/10/98 01:32:35 PM

Record Type: Record

To: See the distribution list at the bottom of this message

CC:

Subject: Slightly revised VP tobacco remarks -- including changes from today's meeting

draft 2/10/98 1pm

STATEMENT BY VICE PRESIDENT AL GORE  
ANNOUNCEMENT OF "THE HEALTHY KIDS ACT"  
WEDNESDAY, FEBRUARY 11, 1998

Today, we take a crucial step forward in the fight against teen smoking -- and the next big step toward writing last year's tobacco settlement into law.

For years, America's parents and families have been outmatched -- by multi-million dollar ad campaigns targeted at our children. By secret strategies to hide the deadly effects of smoking. By nicotine addiction that captures 3,000 of our children every day -- and costs 1,000 of them their lives.

Over the past five years, President Clinton and I have been determined to change all that -- to protect our children from the number-one preventable cause of death in this country. We enacted the toughest-ever measures to cut-off children's access to tobacco, and the tobacco companies came to the bargaining table -- because they knew we meant business.

Now we have an opportunity to build on the landmark tobacco settlement that was reached last June. We have a chance to pass bipartisan, comprehensive legislation that dramatically reduces teen smoking and changes the way tobacco companies do business forever.

The President has made clear that there are five core principles that must be met for any bill to receive his signature: It must raise the

price of cigarettes by up to \$1.50 a pack over the next 10 years, with penalties on the tobacco industry if it keeps marketing to children. It must give the FDA full authority to regulate nicotine as a drug. It must require tobacco companies to disclose information on the dangers of their products. It must advance other crucial health goals, like reducing second-hand smoke. And it must protect the economic welfare of tobacco farmers and their communities.

Today, just two weeks after Congress has come back to work, Senator Conrad and his colleagues have come forward with legislation that meets all five principles -- and therefore meets America's challenge of reducing teen smoking. I'm grateful for their leadership. The President and I look forward to working with them -- and with members of both houses, and both parties -- to shape the best ideas and proposals into a bipartisan, comprehensive solution to this crushing public health problem.

I want to emphasize that any successful bill must have broad, bipartisan support. There are a great many Republicans in both houses of Congress who care very deeply about this issue -- and the President and I will support any bill, Republican or Democratic, that meets our five core principles.

But I am especially pleased that the Healthy Kids Act, very first bill to be proposed, meets those principles, and makes them the starting point for this legislative debate. Teen smoking is a comprehensive problem -- and it demands a comprehensive solution. When it comes to protecting our children, half a loaf isn't good enough. That is why the President and I will not support legislation that fails to meet all five principles -- including a substantial price increase on a pack of cigarettes, along with other measures to cut teen smoking in half.

Our call for a price increase is not about money; it's about our children's health. Without a substantial increase in the price of a pack of cigarettes, we simply will not achieve our goal of dramatically reducing teen smoking. And that has always been our sole and central goal.

I ask every member of Congress, of both parties: follow the example of these Senators. Support this legislation, or come forward with your own bill that meets our five principles. This can be the Congress that finally protects our children from nicotine addiction and disease -- and gives America the healthy kids and families we deserve.

Message Sent

To: \_\_\_\_\_

Bruce N. Reed/OPD/EOP

Donald H. Gips/OVP @ OVP

Toby Donenfeld/OVP @ OVP

Jerold R. Mande/OSTP/EOP

Thomas L. Freedman/OPD/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Melissa N. Benton ( CN=Melissa N. Benton/OU=OMB/O=EOP [ OMB ] )

CREATION DATE/TIME:10-FEB-1998 09:46:11.00

SUBJECT: Reminder--comments on Labor (PWBA) testimony on ERISA enforcement legislat

TO: Alice E. Shuffield ( CN=Alice E. Shuffield/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

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

TO: Laurence R. Jacobson ( CN=Laurence R. Jacobson/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

TO: Mark D. Menchik ( CN=Mark D. Menchik/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

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

TO: Sarah S. Lee ( CN=Sarah S. Lee/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

TO: Joseph F. Lackey Jr. ( CN=Joseph F. Lackey Jr./OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

TO: Larry R. Matlack ( CN=Larry R. Matlack/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

CC: Janet R. Forsgren ( CN=Janet R. Forsgren/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

TEXT:

This is a reminder that your comments on the subject LRM are due today at noon. This deadline is firm.

For your reference, an electronic copy of the LRM and the document follow. (You should have received a hard copy yesterday afternoon.)

If we do not hear from you by noon today, we will assume you have no comments and will clear the testimony. Please call if you have any questions (395-7887). Thanks!

----- Forwarded by Melissa N. Benton/OMB/EOP on 02/09/98  
04:46 PM -----

Total Pages: \_\_\_\_\_

LRM ID: MNB95  
EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
Washington, D.C. 20503-0001

Monday, February 9, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference

OMB CONTACT: Melissa N. Benton  
PHONE: (202)395-7887 FAX: (202)395-6148

SUBJECT: LABOR Testimony on HR2290 Security and Enforcement Compliance for Retirement under ERISA

DEADLINE: Noon Tuesday, February 10, 1998

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: To follow is a draft of PWBA (Berg) testimony to be delivered before the Human Resources Subcommittee of House Government Reform and Oversight this Thursday at 10 a.m.

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Janet R. Forsgren

LRM ID: MNB95 SUBJECT: LABOR Testimony on HR2290 Security and Enforcement Compliance for Retirement under ERISA

#### RESPONSE TO LEGISLATIVE REFERRAL MEMORANDUM

If your response to this request for views is short (e.g., concur/no comment), we prefer that you respond by e-mail or by faxing us this response sheet. If the response is short and you prefer to call, please call the branch-wide line shown below (NOT the analyst's line) to leave a message with a legislative assistant.

You may also respond by:

- (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
- (2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Melissa N. Benton Phone: 395-7887 Fax: 395-6148



**STATEMENT OF OLENA BERG  
ASSISTANT SECRETARY OF LABOR  
PENSION AND WELFARE BENEFITS ADMINISTRATION  
BEFORE THE HOUSE GOVERNMENT REFORM AND OVERSIGHT  
SUBCOMMITTEE ON HUMAN RESOURCES AND INTERGOVERNMENTAL  
RELATIONS**

**February 12, 1998**

**INTRODUCTION**

Mr. Chairman and Members of the Subcommittee, thank you for inviting me to testify on H. R. 2290, the "Security Enforcement Compliance in Retirement Under ERISA Act", the "SECURE bill." Mr. Chairman, I applaud you and Congressman Payne for sponsoring of SECURE, and for the bipartisan support you have brought to this important initiative. While H. R. 2290 would make relatively minor changes to ERISA, it would make a significant difference in the security of the benefits of millions of ERISA plan participants and their families.

Stronger audits, rapid reporting of crimes, new standards of accountability for the profession that helps to protect our pensions, and civil penalty improvements, are the hallmarks of this proposal. As the Assistant Secretary for Pension and Welfare Benefits, my charge is to protect and strengthen this nation's private-sector pension system. I can think of few pension bills currently before the Congress that would make such significant improvements in the safety of workers' benefits as the SECURE bill. This Subcommittee's interest in retirement security is greatly appreciated, and we in the Administration want to work closely with you, Mr. Chairman, and the other Members of this Subcommittee to enact this legislation during this session of Congress.

Administrations of both parties have called for most of the changes contained in this bill for over a decade. The Department of Labor's Inspector General and the General Accounting Office have identified these reforms as a high priority to safeguard pensions in America. It is time for Congress to act. Mr. Chairman, thank you for taking these important steps to fulfill our shared responsibilities.

## **THE PROBLEM**

### *Repeal of Limited-Scope Audit*

I want to begin my testimony today by asking the Subcommittee Members a question. How many of you would invest your money in a business whose auditors are prevented from reviewing all of the company's assets and operations and, as a result, decline to issue any opinion about the fair presentation of the financial statements? And yet, under the Employee Retirement Income Security Act of 1974 (ERISA), a law whose stated purpose is to protect the benefits of American workers, nearly *40 million* ERISA plan participants receive benefits from plans that have this type of audit.

Current law requires that larger pension plans, those with over 100 participants, receive an annual financial audit. Since there was no audit requirement prior to the enactment of ERISA, it is clear that Congress specifically contemplated that audits by independent, qualified public accountants would be a key element of ERISA's enforcement scheme to protect the hard-earned benefits of workers, retirees, and their families.

ERISA, however, permits plan assets held in certain regulated financial institutions, such as banks or insurance companies, to be excluded from the scope of an annual financial audit. If a plan administrator has elected a "limited-scope" audit, the regulated financial institution

holding plan assets certifies as to the identity and value of the assets it holds. As a consequence of the plan administrator's decision to elect the limited-scope audit, the plan auditor is prohibited by professional auditing standards from rendering any opinion whatsoever. The auditor's opinion is "disclaimed," **even for assets not held by financial institutions and for plan operations that were examined.** The Department, plan sponsors and participants have no auditor's opinion to provide assurance that plan assets are secure.

The discretion to limit the scope of the audit was given to plan administrators when ERISA was enacted in 1974. While Congress clearly wanted plans to be audited, it also wanted to keep audit costs as low as possible. Congress also did not want plan auditors to duplicate the work of financial institutions' auditors. At the time that ERISA was being drafted, auditors were permitted to render what were known as "piecemeal opinions." A "piecemeal opinion," as the name suggests, was one in which the auditor rendered an opinion only on the assets the auditor actually reviewed and disclaimed an opinion on the other plan assets the auditor had not reviewed. While not ideal, this at least provided some assurance of the plan's integrity. However, by the time ERISA was enacted, the American Institute of Certified Public Accountants (AICPA) had issued a professional auditing standard prohibiting this type of opinion. The AICPA believed that piecemeal opinions tended to overshadow or contradict the overall opinion expressed by the auditor, potentially misleading users of the financial statements. Professional auditing standards now require that auditors express an opinion on an entity's financial statements "taken as a whole."

In our view, the limited-scope audit and resulting disclaimed opinions are inconsistent with the compliance structure Congress believed it enacted in 1974, i.e., a combination of self-policing, private rights of action and government oversight.

I want to quote from a typical auditor's report where a limited-scope audit was elected to help you better understand what little value it has and what little comfort it provides:

As permitted by Section 2520.103-8 of the Department of Labor's Rules and Regulations for Reporting and Disclosure under the Employee Retirement Income Security Act of 1974, the . . . **[plan] Committee instructed us not to perform, and we did not perform,** any auditing procedures with respect to the information certified by . . . the Trustee of the Plan, except for comparing the information with the related information included in the financial statements and supplemental schedules . . . . **Because of the significance of the information that we did not audit, we are unable to, and do not,** express an opinion on the accompanying financial statements and supplemental schedules taken as a whole . . . .

The lack of an opinion in these reports has made requiring an audit largely meaningless and tens of thousands of such audit reports are submitted every year.

About half of the nearly 70,000 plans that are required to have annual financial statement audits (34,200) receive limited-scope audits. More than *\$950 billion* in plan assets out of an estimated \$3 trillion subject to the audit requirement are *not subject to a meaningful audit*.

Neither plan participants nor the federal government can be certain that *nearly one trillion* in plan assets is secure. The very idea that workers' money held in trust for retirement purposes, some of which is insured by the Pension Benefit Guaranty Corporation, can escape a meaningful audit is unsettling. Significantly, so far as I am aware, the use of the limited-scope audit is not permitted by any other federal statute.

Another problem we encounter with the limited-scope audit is that auditors who are engaged to perform them believe that, since no opinion is rendered, he or she is not liable for any problems. This lack of accountability, coupled with a plan fiduciary's push to keep audit expenses low, unfortunately, acts as a real disincentive for thorough audit work. The limited-scope audit has become a mindless, mechanical process that does not focus on the safety.

of a plan's assets. It has become a way to satisfy the requirement to have an annual audit with the least amount of effort.

The ability to conduct a limited-scope audit undermines two of the primary goals the ERISA audit requirement seeks to achieve. First, independent public accountants can deter would-be wrongdoers by exposing the operations of a benefit plan to the "sunlight" of an audit done in accordance with generally accepted audit standards. Second, the limited-scope audit approach also impedes effective enforcement. This approach to ERISA enforcement builds on the private sector role of auditors to ensure that financial statements fairly reflect the financial condition of the entity audited, make full disclosures and comply with generally accepted accounting principles. It is obviously more efficient and effective to prevent problems from occurring through audits of plans than to expend government resources attempting to restore plan assets lost through fraud or abuse. The annual audit helps PWBA leverage limited enforcement resources by relying on the work of plan auditors to uncover and report problems to PWBA. PWBA currently has authorized staffing of 708 FTEs to administer and enforce all of ERISA's requirements for 750,000 pension and 2.5 million health plans. If we were to systematically review this universe plan-by-plan, we would reach each pension plan once every 170 years or so. With health plans added in, we would complete our review of each plan in 300 years.

#### *PWBA's Experience with Full and Limited-Scope Audits*

##### *Full-Scope Audits*

I want to describe for you a few cases that demonstrate the value of thorough, full-scope

audits. One case was opened by PWBA's Atlanta Regional Office based on a review of the plan's audit report by our Chief Accountant's Office. The report described a possible ERISA violation by the plan trustees relating to the purchase of employer securities. The Atlanta Regional Office investigated and determined that the trustees, indeed, had violated ERISA but that the violations had already been corrected as a result of the auditor's report to the plan. We believe this example of self-enforcement is exactly what Congress had in mind when it required plans to be audited.

Another case, opened by PWBA's San Francisco Regional Office based on a review of an employee stock ownership plan's (ESOP's) full-scope audit report noted that the per share value of the plan sponsor's stock, in a little over one and one-half years, had fallen from \$7.04 to \$1.45. The investigation uncovered serious ERISA fiduciary violations and resulted in a settlement which restored \$7.5 million to the plan participants.

A third example demonstrating the value of full-scope audits involved a profit sharing plan. The case originally was opened based on a review of its annual report (Form 5500) and full-scope audit opinion. The initial review indicated 99.7% of plan assets were invested in certificates of deposit through banks in which the trustees were substantial shareholders. The investigation confirmed that the investment was a prohibited transaction. Voluntary compliance was achieved by having the plan trustees redeem the certificates of deposit, totaling more than \$5 million, and investing the proceeds in a diversified manner.

These three cases clearly demonstrate the value of full-scope audits. If an auditor discovers a significant problem, the report will notify the plan trustees about the problem and give them the opportunity to quickly correct it. If they do not correct the problem, we can institute enforcement action.

### **Limited-Scope Audits**

Now I want to talk about a couple of cases that PWBA has had involving limited-scope audits that did not describe violations of ERISA. An investigation was begun into potential losses of a pension plan sponsored by a major U.S. corporation. PWBA's investigation confirmed that the plan had, indeed, sustained large losses due to a plan investment manager making highly speculative investments. PWBA recovered \$22 million for the plan. The limited-scope audit reports issued by the auditor gave no indications of problems with the investment manager or account balances.

The last case that I want to talk about involved a 401(k) plan. PWBA opened an investigation based on a referral from another investigative agency. In that case, the plan sponsor failed to make all of the employee contributions to the bank trustee. The plan's custodian/trustee included the uncollected contribution amount on the participants' statements even though the money had not been received. The limited-scope audit report and audited financials did not disclose the delinquent contributions. PWBA recovered about \$590,000 in assets.

Before I leave my discussion of the repeal of the limited-scope audit provision, I want to talk about some of the criticism you may have heard about "rogue" accountants descending on banks, insurance companies and mutual funds if the limited-scope audit option were repealed. As I said previously, currently, 34,500 plans receive full-scope audits every year. In the more than 20 year history of ERISA, several hundred thousand full-scope audits have been performed, yet we've never received a complaint about an accountant from a bank, insurance company, or mutual fund regarding plan accountants "descending" on these institutions.

The repeal of the limited-scope audit provision does not mean that ERISA auditors must audit the books and records of financial institutions currently covered by the exception. Generally, under the bill, plan auditors are to use what is known as a "single audit approach" which uses a special report prepared by the auditors of affected banks and other institutions that speaks to the reliability of the information generated by the bank. Plan auditors, then, would be able to issue full-scope audit reports that provide assurance that plan assets are secure.

#### Minimization of Costs

While it is impossible to say with any real precision, based on information provided to us by the AICPA, we believe that any cost increase would be, on average, less than \$4.00 per participant. I think that if you ask most plan participants, they would be very willing to pay a few dollars more every year to make their benefits secure.

The increases in audit costs also need to be considered in the proper perspective. They are very reasonable when you consider that for plans that receive a limited-scope audit, neither plan participants nor the federal government are getting anything of value.

#### *OTHER PROVISIONS OF SECURE*

Before I leave today, I want to talk about some other very important provisions of SECURE.

#### Additional Requirements For Accountants

We need to strengthen the standards for accountants who audit ERISA plans if the quality of their work is to be improved. Our recent review of the quality of ERISA plan audits bears this out. In our study, we found that 19% of plan audits were deficient and 33% of plan filings

failed to satisfy ERISA's reporting and disclosure requirements. These audits included both full-scope and limited-scope audits. A prior study by our Inspector General's Office reached similar conclusions. The bill, if enacted, would help to improve employee benefit plan audits by requiring ERISA auditors to have an external quality control review and satisfy continuing education requirements relating to ERISA plan audits. The proposal would also grant the Secretary of Labor authority to impose additional qualifications or requirements on accountants necessary to protect the integrity of plan assets. We expect to work constructively with state licensing agencies and the AICPA in implementing these provisions.

#### *Reporting Crimes Discovered During Audits*

Under current law, there is no specific duty for an administrator of an employee benefit plan, or an accountant who conducts a plan audit, to disclose promptly to the Secretary information indicating that a crime involving the plan, such as embezzlement, bribery, or kickbacks, may have occurred. Under ERISA's current reporting rules, even the most egregious violations are not required to be reported until 210 days after the end of the plan year in which the offense occurred (which can be almost two years later).

While plan accountants and auditors are often the first line of defense against fraud, current rules permit this significant time lag between the detection of serious crimes and the filing of an annual report with the government. This legislation requires that the Secretary be notified by the plan administrator within five business days when he or she or the plan auditor discovers that there is evidence that certain specified, serious crimes like theft, embezzlement, bribery or kickbacks may have occurred. The plan accountant has the responsibility to notify us if the plan

administrator fails to do so. Similar fast reporting requirements were enacted in the "Private Securities Litigation Reform Act of 1995." The sooner we are made aware of problems, the faster we can act to protect and restore plan assets.

### Civil Penalty

The bill imposes a civil penalty of up to \$50,000 against any plan administrator or an accountant who knowingly and willfully fails to report information required under the bill. The proposed civil penalty is discretionary and, if enacted, we intend to implement it by developing a penalty structure that would allow the \$50,000 penalty to be assessed only in the most serious cases. The proposed penalties are designed to ensure compliance and are no more severe than those found in federal securities laws.

### ERISA Section 502(l)

Finally, I want to talk about how the bill would affect ERISA section 502(l). Section 502(l) is a mandatory civil penalty paid by plan fiduciaries that applies to amounts paid under "settlement agreements" or court orders in cases in which the Secretary is a party. A "settlement agreement" is an agreement between PWBA and the fiduciary who we believe committed a violation of ERISA, where PWBA agrees to release its claim against the fiduciary in exchange for cash or other property being returned to a plan. Section 502(l) was added to ERISA by the Omnibus Budget Reconciliation Act of 1989 as an added enforcement provision, but has created real problems in enforcement.

Section 502(l) imposes a mandatory civil penalty on fiduciaries equal to 20% of the amount recovered in a fiduciary breach action. In practice, this mandatory 20% penalty has become a tax on settlements. It has distorted the process of negotiating settlements and has

produced extensive litigation which may have been avoided by settlements. It has not resulted in the collection of significant revenues.

Section 502(l) has been extremely difficult to administer. Fiduciaries who correct their violations but refuse to enter into settlement agreements may avoid the penalty. At the same time, the mandatory nature of the penalty requires the Department to penalize the fiduciary who negotiates in good faith, settles with the Department and quickly restores a plan's losses. This penalty discourages people from coming forward and settling with the Department. The principal problem is the mandatory nature of the penalty. The existing provision penalizes the fiduciary who negotiates in good faith, settles with the Department and restores a plan's losses. This penalty discourages people from coming forward and settling with the Department rather than going to court.

This bill would make the penalty discretionary. I want to mention that this proposal came to us from our field staff, the people within PWBA who actually investigate and develop our cases. We strongly support this provision. I hope that the Members of this Subcommittee will keep this in mind as the SECURE proposal goes through the legislative process.

#### ***REVENUE EFFECTS***

Overall, we believe that this bill would increase receipts by less than \$500,000 over a five-year period. The civil penalty for failure to report crimes would raise revenues slightly. The changes to section 502(l) might result in a very minor revenue loss. Other provisions of the bill are not expected to have a revenue impact.

#### **CONCLUSION**

Mr. Chairman, in our view, H. R. 2290 is a thoughtful and balanced proposal that will

result in improving audits being conducted by well-qualified accountants and will provide us with the information we need, when we need it.

Before I leave today, I want to remind the Members of this Subcommittee about some of the history on this legislative proposal. In November 1989, the Department of Labor's Office of Inspector General identified significant deficiencies in audits of private employee benefit plans.

These findings generated congressional concerns about the protection of American workers' benefits. As a result, the Chairman of the House Subcommittee on Oversight, Committee on Ways and Means, and the House Subcommittee on Labor-Management Relations, Committee on Education and Labor, asked the General Accounting Office to identify problems in the performance of plan audits.

The GAO reached the same conclusions as DOL's Inspector General. Both DOL's Inspector General and the GAO have compared these accounting weaknesses in employee benefit plans with the savings and loan crisis. And the 1992 GAO report requested by Congress advocated audit reforms similar to those found in the SECURE legislation. Finally, audits of ERISA benefit plans have been reported as a major weakness in the Department's Federal Managers' Financial Integrity Act annual report for the last seven years.

Audit reform has been a bipartisan issue from the start. The Bush Administration introduced prior ERISA audit reform proposals substantially similar to those found in SECURE. Previous proposal sponsors have included Senators Kassebaum, Dole, Hatch, Jeffords and Simon.

Mr. Chairman, the clear message is that Congress needs to act now. We cannot afford to ignore these warnings any longer. I again want to commend you for your sponsorship of this bill

and I look forward to working with you and the Members of the Subcommittee on this important project.

Thank you. I would be happy to respond to any questions that you or the Members of the Subcommittee may have.

**Automated Records Management System  
Hex-Dump Conversion**

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Rachel E. Levinson ( CN=Rachel E. Levinson/OU=OSTP/O=EOP [ OSTP ] )

CREATION DATE/TIME:10-FEB-1998 15:44:08.00

SUBJECT: House cloning bill

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

TO: Arthur Bienenstock ( CN=Arthur Bienenstock/OU=OSTP/O=EOP @ EOP [ OSTP ] )  
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TO: Lucia A. Wyman ( CN=Lucia A. Wyman/OU=WHO/O=EOP @ EOP [ WHO ] )  
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TO: Toby Donenfeld ( CN=Toby Donenfeld/O=OVP @ OVP [ UNKNOWN ] )  
READ:UNKNOWN

TEXT:  
FYI -

Harold Varmus is scheduled to testify at House Commerce hearing on cloning, Thursday, February 12. Ehlers, Bond and Arney are also on the list.

below is the text of HR 3133 a cloning bill (actually its a research bill) brought by Stearns and Wicker. I think the definition they use might be of some use.

"(a) Prohibition.--None of the funds made available in any Federal law may be obligated or expended to conduct or support any project of research that includes the use of human somatic cell nuclear transfer technology to produce an oocyte that is undergoing cell division toward

development of a fetus.

(b) Definitions.--For purposes of this section--

(1) the term ``human somatic cell nuclear transfer'' means transferring the nucleus of a human somatic cell into an oocyte from which the nucleus has been removed or rendered inert; and

(2) the term ``somatic cell'' means a cell of an embryo, fetus, child, or adult which is not and will not become a sperm or egg cell."

Obviously, I don't like saying embryonic cells are somatic cells, however, the phrase "toward development of a fetus" might give us some wiggle room. We could argue we are not interested in development towards a fetus, only towards bone marrow, or skin or whatever.

Since Stearns and Wicker are both pretty solid with the Christian Coalition, the fact that the language started with them might be helpful as well.

Sean Tipton  
ASRM

[DOCID: f:h3133ih.txt]

105th CONGRESS  
2d Session  
H. R. 3133

To prohibit the expenditure of Federal funds to conduct or support research on the cloning of humans, and to express the sense of the Congress that other countries should establish substantially equivalent restrictions.

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IN THE HOUSE OF REPRESENTATIVES

January 28, 1998

Mr. Stearns (for himself and Mr. Wicker) introduced the following bill; which was referred to the Committee on Commerce, and in addition to the Committee on Science, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

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A BILL

To prohibit the expenditure of Federal funds to conduct or support research on the cloning of humans, and to express the sense of the Congress that other countries should establish substantially equivalent restrictions.

Be it enacted by the Senate and House of Representatives of the

United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ``Human Cloning Research Prohibition Act''.

SEC. 2. PROHIBITION AGAINST EXPENDITURE OF FEDERAL FUNDS FOR RESEARCH ON CLONING HUMANS.

(a) Prohibition.--None of the funds made available in any Federal law may be obligated or expended to conduct or support any project of research that includes the use of human somatic cell nuclear transfer technology to produce an oocyte that is undergoing cell division toward development of a fetus.

(b) Definitions.--For purposes of this section--

- (1) the term ``human somatic cell nuclear transfer'' means transferring the nucleus of a human somatic cell into an oocyte from which the nucleus has been removed or rendered inert; and
- (2) the term ``somatic cell'' means a cell of an embryo, fetus, child, or adult which is not and will not become a sperm or egg cell.

SEC. 3. REVIEW.

The Director of the National Science Foundation shall enter into an agreement with the National Research Council for a review of the implementation of this Act. Not later than 5 years after the date of the enactment of this Act, the Director shall transmit to the Congress a report containing the results of that review, including the conclusions of the National Research Council on--

- (1) the impact that the implementation of this Act has had on research; and
- (2) recommendations for any appropriate changes to this Act.

SEC. 4. PROTECTED SCIENTIFIC RESEARCH.

Nothing in this Act shall restrict other areas of scientific research not specifically prohibited by this Act, including important and promising work that involves--

- (1) the use of somatic cell nuclear transfer or other cloning technologies to clone molecules, DNA, cells other than human embryo cells, or tissues; or
- (2) the use of somatic cell nuclear transfer techniques to create animals other than humans.

SEC. 5. SENSE OF CONGRESS REGARDING INTERNATIONAL PROHIBITION.

It is the sense of the Congress that each foreign country should establish a prohibition substantially equivalent to the prohibition established in section 2(a).

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jennifer M. Palmieri ( CN=Jennifer M. Palmieri/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:10-FEB-1998 16:22:26.00

SUBJECT: Cloning

TO: Amy W. Tobe ( CN=Amy W. Tobe/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Sara M. Latham ( CN=Sara M. Latham/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Stephanie S. Streett ( CN=Stephanie S. Streett/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

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

READ:UNKNOWN

TO: Michelle Crisci ( CN=Michelle Crisci/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Stacie Spector ( CN=Stacie Spector/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: John Podesta ( CN=John Podesta/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

FYI, the scientists that created "Dolly" the sheep will be in the audience at the President's Science speech in Philadelphia on Friday. They will not be addressing the group, nor will they have the opportunity to see the President. Nevertheless, I thought everyone would want to now they would be around.

Earlier, we had thought that the doctor who advocating human cloning would also be in attendance. We have since learn that he will not be there.

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Jonathan Weber to Elena Kagan re: Satcher (1 page)	02/10/1998	P6/b(6)

### COLLECTION:

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

### FOLDER TITLE:

[02/07/1998 - 02/10/1998]

2009-1006-F  
eh207

### 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: Toby Donenfeld ( CN=Toby Donenfeld/O=OVP [ UNKNOWN ] )

CREATION DATE/TIME:10-FEB-1998 17:27:57.00

SUBJECT: Tobacco Letter from Ford, Hollings, Robb and Cleland

TO: Jerold R. Mande ( CN=Jerold R. Mande/OU=OSTP/O=EOP @ EOP [ OSTP ] )  
READ:UNKNOWN

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

TO: Thomas L. Freedman ( CN=Thomas L. Freedman/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

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

TO: Ron Klain ( CN=Ron Klain/O=OVP @ OVP [ UNKNOWN ] )  
READ:UNKNOWN

TEXT:

Senators Ford, Hollings, Robb and Cleland have just sent a letter to the VP saying that the President called for "comprehensive, bipartisan legislation," and that they too want a bipartisan solution. They want the VP to use tomorrow's event to "detail the steps the Administration is willing to take, and to enter into direct negotiations with Republican leaders by a date certain to achieve a bipartisan solution." They end with another call for the Administration to take "concrete steps to initiate negotiations as soon as possible."

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-FEB-1998 19:45:36.00

SUBJECT: Bilingual

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

READ:UNKNOWN

TEXT:

Got the copy of the Chris Edley note you sent me re bilingual education and Unz. Here's where I think we are:

1. As you know, a WH delegation is going to Cal later this week to tough base with opponents and proponents of Unz. In my view, the most important thing we can get from these discussions is a good handle on the level and sources of pressure for his to publically oppose Unz, and the likely consequences (for the President, for the VP, for the initiative) for taking a public position.

2. If and when we decide to take a position on Unz, I expect it will need to include the following points:

We want all kids to learn English, as fast as possible, and to learn their academic subjects as well.

LEP kids need extra help in doing this. That's what bilingual education is for--to give kids the extra help to learn English and their academic subjects.

Bilingual ed doesn't do this as effectively as it must. Therefore, we are in favor of the following changes (to be determined) to bilingual ed (I've asked Riley and Smith to give us recommendations here; they are both convinced that some changes are needed, and are far more likely to come up with something useful than the bilingual ed. program will. They have not settled on anything specific yet.)

The Unz initiative makes the wrong kind of changes. It won't help kids get a better education, and it is so prescriptive that it doesn't give teachers, parents and local school officials the flexibility to design the right program for their kids.

3. While I know there are concerns that we take a position sooner rather than later, it's not clear to me yet that's the right way to go. If you haven't seen it, there is a piece in Sunday's Outlook section that basically says that the Republican's in California are scared to death of this issue, and don't want to get crosswise with the Hispanic community again. Karen Skelton has argued that our involvement would mobilize Wilson and other R's to come out against this, and its going to pass anyway. If this is right, than we may be more helpful by not having the President weigh in (but maybe Riley instead). I'm just not sure yet.

4. We have not yet dealt with the Hispanic Caucus on this (its good we haven't, because it would have made getting their support on the Goodling testing vote more difficult). I suspect this may be the trickiest part. The education groups I've talked to expect the Hispanic's in the California delegation to be actively opposed to Unz. I don't know how happy the Caucus will be with any changes we might propose to the federal bilingual education program. And, I don't know how all of this will intersect with the testing issue--though if it turns out that the Caucus really wants us to come out against Unz, and if we all agree that we have to make clear that the point is for kids to learn English, then I want to

look for a way to get some leverage over the Caucus on the tests.

5. I expect that some of this could be as divisive internally as was the testing issue last year. So, so far I've kept just about all of this to myself.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Thomas L. Freedman ( CN=Thomas L. Freedman/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:10-FEB-1998 11:29:41.00

SUBJECT: Re: smut

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:

I'm talking to the agencies. It looks promising and we may be able to find some free equipment for the libraries...

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jerold R. Mande ( CN=Jerold R. Mande/OU=OSTP/O=EOP [ OSTP ] )

CREATION DATE/TIME:10-FEB-1998 18:27:01.00

SUBJECT: Re: Conrad Bill Attendees

TO: Thomas L. Freedman ( CN=Thomas L. Freedman/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TO: Donald H. Gips ( CN=Donald H. Gips/O=OVP @ OVP [ UNKNOWN ] )  
READ:UNKNOWN

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

TO: Toby Donenfeld ( CN=Toby Donenfeld/O=OVP @ OVP [ UNKNOWN ] )  
READ:UNKNOWN

TO: Christopher C. Jennings ( CN=Christopher C. Jennings/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:  
fyi

I spoke to Fazio's and Waxman's staff today. Fazio is mulling over whether he will introduce Conrad in the House. Waxman will be supportive but sees Conrad as a floor for negotiations and not a ceiling. In particular, Waxman would like to see the penalties and ETS sections strengthened and would like to do more on advertising that doesn't depend on industry consent.

Thomas L. Freedman  
02/10/98 05:54:30 PM  
Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Jerold R. Mande/OSTP/EOP  
cc: Laura Emmett/WHO/EOP  
Subject: Conrad Bill Attendees

notice waxman and fazio.

----- Forwarded by Thomas L. Freedman/OPD/EOP on 02/10/98  
05:53 PM -----

Toby Donenfeld @ OVP  
02/10/98 05:54:35 PM  
Record Type: Record

To: Thomas L. Freedman/OPD/EOP

cc: David R Thomas/OVP @ OVP  
Subject: Conrad Bill

According to Conrad's press person, (Tom Mahr isn't in) they have the following Senators confirmed to attend:

Daschle  
Conrad  
Bingaman  
Durbin  
Kennedy  
Lautenberg  
Leahy  
Reed  
and Fazio  
Waxman

They're trying to find out how many others have signed on as cosponsors. I told him that we are concerned that the numbers are much lower than we originally thought.



**Crime Meeting Agenda  
February 11, 1998**

Automated Records Management System  
Hex-Dump Conversion

**2/14 Radio Address: 1998 National Drug Control Strategy**

**Possible 2/18 Drunk and Drugged Driving Event**

- \* Renew call to pass .08 BAC legislation.
- \* Announce 2-state pilot program to drug test for driver's licenses.
  - Funding issues for pilot need resolution.

**Treasury Update on Assault Weapons**

- \* Deadline for report back is March 14.
- \* Possible release of report back at event for National Association for Attorneys General March 12-14.

**Other Potential Events**

- \* Gun Trafficking (Schumer legislation)
- \* Money Laundering/ Final GTO Regulation
- \* School Violence Report Card
- \* Law Enforcement Technology
- \* 4th Anniversary of AG's Violent Crime Initiative
- \* Criminal justice drug treatment conference

**Miscellaneous/ Pending Items**

- \* Response to crack letter
- \* Any other pending events/releases--DOJ Reports
  - Gang report
  - DUF data crack, heroin use
- \* Brady regulation

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Thomas L. Freedman ( CN=Thomas L. Freedman/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:10-FEB-1998 10:53:29.00

SUBJECT: Re: Several Technical Edits to Draft Conrad Bill

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: Mary L. Smith ( CN=Mary L. Smith/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

CC: Jerold R. Mande ( CN=Jerold R. Mande/OU=OSTP/O=EOP @ EOP [ OSTP ] )  
READ:UNKNOWN

TEXT:

Technical changes suggested by OMB this a.m. that look fine if Conrad wants 'em. Yes?

----- Forwarded by Thomas L. Freedman/OPD/EOP on 02/10/98  
10:51 AM -----

Patrick G. Locke  
02/10/98 10:13:34 AM  
Record Type: Record

To: richard j. turman/omb/eop  
cc: See the distribution list at the bottom of this message  
Subject: Re: Several Technical Edits to Draft Conrad Bill

Here are some suggested line edits for my three comments in the youth surcharge section, as well as a few others:

Inflation adjustment. Title I, sec. 102, p. 23 line 14. "(A) the percentage increase in the medical consumer price index ..."

Youth surcharge baseline. Title III, sec. 302, p. 2 line 3. Insert sentence specifying overall baseline level: "The baseline level of tobacco product use (referred to in this title as the 'baseline level') is the percentage of individuals under 18 years of age determined to have used the tobacco product in the first annual performance survey for 1998."

Youth usage reduction. Title III, sec. 303, p. 4 line 5. "required percentage reduction from the baseline level in the percentage underage use ..."

Youth penalties. Title III, sec. 304, p. 6 line 18 and p. 7 lines 6, 8, 10, and 12. Penalties should be stated in cents as "10 cents", not "\$.10 cents"

Actual percentage reduction. Title III, sec. 304, p. 8 line 9. Insert "multiplied by 100" to convert fractional percent to integer percent for comparison to the reduction target.

I also have two other technical comments that raise policy issues.

1. Tax deductibility. We could suggest language to clarify the tax status of the basic assessments. It seems the intent of the language is that they be deductible. OTA would probably be a lot happier if this were stated more clearly in the bill.

2. Youth reductions. The penalties on manufacturers for not meeting the youth targets would make the most sense if they were computed on a manufacturer-wide basis for all brands sold by that manufacturer. It is not clear from the bill whether this is the intent or not. If this is the intent, we could suggest language to that effect.

I am also sending these comments by fax to Thomas Freedman at DPC.

Message Copied

To: \_\_\_\_\_

thomas l. freedman/opd/eop

jill m. pizzuto/omb/eop

barry t. clendenin/omb/eop

wm g. white/omb/eop

jim r. esquea/omb/eop

marc garufi/omb/eop

Hugh T. Connelly/OMB/EOP

Joshua Gotbaum/OMB/EOP

# Withdrawal/Redaction Marker Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. email	Lowell Weiss to Elena Kagan re: AAAS Speech [partial] (1 page)	0210/1998	P6/b(6)

## COLLECTION:

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

## FOLDER TITLE:

[02/07/1998 - 02/10/1998]

2009-1006-F  
ch207

## 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]
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- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
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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]
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- 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: Lowell A. Weiss ( CN=Lowell A. Weiss/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:10-FEB-1998 11:32:44.00

SUBJECT:

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

CC: Christopher C. Jennings ( CN=Christopher C. Jennings/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TEXT:

Elena,  
Since the AAAS speech is going to have a major focus on biomedicine (as well as tobacco), we will probably need to say something about cloning.

[REDACTED] P6/(b)(6)

[002]

[REDACTED] Might you have time to discuss this today or tomorrow?

lowell

Clinton Library copy

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ruby Shamir ( CN=Ruby Shamir/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:10-FEB-1998 15:40:30.00

SUBJECT: 1998 Dem Agenda

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

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

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

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

TO: Sarah A. Bianchi ( CN=Sarah A. Bianchi/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

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

TO: Peter A. Weissman ( CN=Peter A. Weissman/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

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

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

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

TO: Amy W. Tobe ( CN=Amy W. Tobe/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

TO: Christopher C. Jennings ( CN=Christopher C. Jennings/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

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

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

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

TO: Cathy R. Mays ( CN=Cathy R. Mays/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TO: Paul A. Tuchmann ( CN=Paul A. Tuchmann/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

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

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

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

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

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

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

TEXT:

Attached is an early draft of Ann's version of the 1998 Democratic Agenda paper for Thursday's event based primarily on two documents from the House and Senate. It is being looked at by House and Senate people. [The only comment so far is that the Senate wants to add a line on science and technology]. Please get any comments on it back to me or to Ann as soon as possible. Thanks.

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

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D12]MAIL48948504T.026 to ASCII,  
The following is a HEX DUMP:

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00000008000000E10500000055110000003C000000E90500000877010000004000000025060000

## THE 1998 DEMOCRATIC AGENDA

Democrats want to address real problems affecting Americans by saving social security for all, reducing class size for our children by hiring 100,000 new teachers and making sure that doctors and patients together, not insurance companies, make health care decisions.

These are the issues that define us as Democrats and most clearly outline our goals for strengthening American families. Together with the agenda we are presenting today, these issues serve as our legislative roadmap to maintaining the strong economy we currently enjoy and addressing the concerns families wrestle with everyday; preparing for retirement, educating children and raising them in safe neighborhoods, and having access to quality, affordable health care.

To further these goals we are committed to a 1998 Democratic legislative agenda that includes:

- **Cutting The Deficit And Saving Social Security First.** By passing a balanced budget three years ahead of schedule, we will be able to cut the deficit to zero and pay for every proposal in the agenda without touching Social Security.
- **Reducing Average Class Size And Modernizing Schools.** We will reduce average class size to 18 students per classroom for the first through third grades by helping local communities hire 100,00 new teachers with certified skills to teach basic reading and math and provide tax credits to local communities to build and renovate over 5,000 schools.
- **Establishing A Patients Bill Of Rights.** Insurance reform will guarantee patient access to specialists, coverage for emergency services, disclosure of information, independent appeals for denied benefits, confidentiality, and patient participation in medical decisions.
- **Raising the Minimum Wage.** Giving approximately 12 million working Americans a pay raise by increasing the minimum wage 50 cents over the next 2 years.

A full list of the 1998 Democratic agenda is attached.

Automated Records Management System  
Hex-Dump Conversion

## THE 1998 DEMOCRATIC AGENDA

### Maintaining The Strong Economy

**Balanced Budget:** By passing a balanced budget three years ahead of schedule, we will be able to cut the deficit to zero and pay for every proposal in the agenda without touching Social Security.

**Minimum Wage:** Raising the pay of approximately 12 million working Americans by increasing the minimum wage 50 cents over each of the next two years.

**Fair Pay:** Helping guarantee equal pay for equal work by increasing enforcement against wage discrimination, establishing voluntary fair pay standards, and improving access to wage information for workers.

### Securing Retirement For All Americans

**Social Security First:** Saving Social Security by paying for every proposal in the agenda without touching the surplus until Social Security is fixed.

**Small Business Pensions:** Making pensions more affordable for small businesses by providing a \$2000 tax credit for pension start-up, and allowing contributions to IRAs to be made by payroll deduction, and making a simplified defined benefit plan available to small business employees.

**Pension Protections:** Making pensions more secure by providing meaningful audits, by expanding pension right to know standards, and by shortening vesting periods.

### Educating America's Children...

**Reducing Class Size And Modernizing Schools:** Reducing average class size to 18 students per classroom for grades 1-3 by helping local communities to hire 100,00 new teachers with certified skills to teach basic reading and math.

**Child Care:** Making child care more affordable for working families, increasing access to and promoting early learning and healthy child development, improving the safety and quality of child care, and expanding access to safe after-school care.

**Computers In Classrooms:** Ensuring Internet access for schools and libraries by protecting their "E-Rate" discounts, and providing new resources to help states integrate technology into their curricula and train teachers to use computers.

**Expanding Educational Opportunity Zones:** Ending social promotion and setting standards based reform in high poverty urban and rural areas.

**Ending Teen Smoking:** Discouraging teen addiction to cigarettes by adding a health fee to each pack, by requiring an end to tobacco company marketing directed at children, and by requiring tobacco companies to pay for new smoking prevention efforts.

### ...And Raising Them In Safe Neighborhoods

**Juvenile Crime:** Protecting kids from guns and drugs through special juvenile prosecutors and courts, extending the Brady Bill to juvenile offenses, and cracking down on gangs.

**After School Crime Prevention:** Reducing juvenile delinquency while relieving child

care burdens by matching the investments of local communities for before and after school learning.

**Tougher Drunk Driving Penalties:** Setting a national maximum standard of .08 blood alcohol level for drivers by tying federal highway funding to state compliance.

**Environmental Protection:** Helping communities protect and maintain clean water supplies, modernizing food safety and inspection techniques, making polluters pay for Superfund clean up, and protecting our national parks.

#### **Access To Quality Affordable Health Care**

**The Patients Bill of Rights:** Promoting insurance reform by guaranteeing access to needed health care providers, as well as access to emergency services; ensuring confidentiality of medical records and simplifying the grievance and appeals processes.

**Extending Medicare:** Enabling Americans ages 62 to 65 and displaced workers ages 55 to 65 purchase Medicare health coverage and enabling retired workers ages 55-65 to buy into Cobra coverage if their former employer drops coverage for retirees.

**Crackdown On Medicaid Waste And Abuse:** Applying new provider reimbursement schedules to reduce Medicare costs.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jerold R. Mande ( CN=Jerold R. Mande/OU=OSTP/O=EOP [ OSTP ] )

CREATION DATE/TIME:10-FEB-1998 13:10:18.00

SUBJECT: Cloning Update

TO: Lucia A. Wyman ( CN=Lucia A. Wyman/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Thomas L. Freedman ( CN=Thomas L. Freedman/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

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:

Good news! I have received word from industry lobbyists that the leadership has decided to put off the cloture vote and ask the Judiciary Committee to review the Bond/Frist and Feinstein/Kennedy bills (although technically the bills will remain on the calendar and not be referred to committee). The leadership made this move after the most recent vote count showed they had lost 10 Rs and the Ds were united. I am checking with HHS to see if they agree with this intelligence.

Next Hurdle -- there is a House Judiciary Committee hearing on Thursday at 11am and we still haven't decided who we are sending. Varmus would seem the obvious choice, but HHS has some reservations. The hearing is already stacked against us. Arney, Bond, and Ehlers are testifying. There is also a panel of pseudo-scientists who will present the right-to-life view point. It is critical we send a scientist with stature to make our case.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-FEB-1998 14:24:13.00

SUBJECT: conrad

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:

does the conrad bill still direct funding of what we call the unrestricted state pool to health care and require HHS approval? if so, and we say nice things about the bill, govs will go nuts.

on talking to dem govs: you will be invited to talk to them in person the Saturday of NGA ( Feb 21) at the DGA meeting. clearly we have to do this. they want to do something fact-to face--not on the phone. we should think over the next week if there is anything we can throw their way.