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**[03/14/1998 - 03/17/1998]**



March 14, 1998 (DRAFT)

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED  
GENE SPERLING  
MIKE COHEN  
BOB SHIREMAN

Automated Records Management System  
Hex-Dump Conversion

SUBJECT: Education Strategy

You have proposed a popular, comprehensive education agenda to expand opportunity, strengthen quality, and help prepare students, especially the most disadvantaged, to reach tough academic standards and to enter college. These proposals build on your efforts since 1993 to raise standards, strengthen accountability and expand flexibility, expand public school choice, and improve the quality of schools by providing them with better prepared teachers and up-to-date technology.

Some of your proposals, such as America Reads and the expansion of the 21st Century Schools program, stand a good chance of enactment. However, many, including class size reduction, school modernization, and national tests, face a steep challenge in Congress, where the majority's education priorities are expanding education IRAs, creating school vouchers, folding existing programs into block grants, and doing relatively little else. In addition, we will face a tough battle to fund your education priorities in the appropriations bill, because the Republicans will advance different spending priorities within education, and because likely Congressional increases in highway spending will squeeze the funds available to the education account overall.

In order to overcome Republican opposition and enact significant portions of your education agenda, we propose a four-part strategy:

- (1) Build momentum by pressing for the proposals that are most likely to pass.
- (2) Make it costly for Republicans to oppose your new education initiatives -- school modernization, education opportunity zones, class size -- by getting Democrats to bring them up every time Republicans try to move a key piece of their education agenda (vouchers, Coverdell, etc.)
- (3) Pursue a multi-pronged approach to national standards and tests.

(4) Conduct a national education campaign to keep your entire education agenda visible and use the bully pulpit to promote education reform.

**I. Building momentum by pressing for the proposals that are most likely to pass with bipartisan support.**

Several pieces of education legislation reflecting your priorities stand good to excellent chances of enactment with bipartisan support. Three of these (America Reads, G.I. Bill, and the Higher Education Act) have July 1 deadlines for enacting necessary authorizations or changes.

**A. America Reads.** The House has already passed its version, known as the Reading Excellence Act, which provides funds to States to improve reading efforts in needy local schools through teacher training (in research-based methods), tutoring, and family literacy. Sen. Jeffords has pledged to move a similar piece of legislation in the Senate, though no action is yet scheduled. We are working to meet a July 1 deadline imposed by the FY 1998 Appropriations bill for triggering \$210 million advance-appropriated for these purposes (for FY 99), and believe the deadline can be met if we push. The House bill has some problems but ultimately would be acceptable, and we expect that the Senate bill will be an improvement.

**B. Charter Schools.** Last session the House passed H.R. 2616 by a strong bipartisan vote (367-57). This bill, introduced by Reps. Riggs and Roemer and endorsed by you would modify the existing federal Charter Schools Program by (1) steering more federal charter school funding to states that provide charter schools with the maximum flexibility and strongest accountability for results, and to states that have not reached a cap on the number of charter schools permitted by that state's charter schools law, and (2) encouraging states to direct an appropriate level of other federal education resources that pass through states to charter schools. Sen. Lieberman and Sen. Coats have proposed similar legislation in the Senate, and the Senate Labor Committee has scheduled a hearing for March 31. The prospects are good for enacting a charter schools bill this year, though Sen. Kennedy is not eager to move a charter schools bill, and controversial issues (e.g., whether to steer federal funds to states that allow entities other than state or local school boards to authorize and oversee charter schools) still need to be resolved.

**C. Reauthorization of the Higher Education Act (including your mentoring and teacher recruitment proposals, and the student loan interest rate fix).** Both the House and Senate Committees are scheduled to take up the Higher Education Act in the next few weeks, aiming for floor action by May and a conference in June. In addition to reauthorizing the main student aid programs, this bill would include your mentoring and teacher recruitment proposals. It also needs to include a change in the new student loan interest rate scheduled to go into effect on July 1. (There is a chance that the Congress will separate out this most pressing component of the bill. If that happens, the pressure to move the overall bill will subside considerably, and the chances of having a comprehensive higher education bill to sign before Congress adjourns will be significantly reduced.)

**D. Job Training/Vocational Education.** The House passed both a job training consolidation bill and a Vocational Education reauthorization bill last year. The Senate has combined the two, and may act as soon as next week on that package. While there are many issues that need to be addressed in conference, we are optimistic that a bill can be finalized by July 1, the deadline for authorizing the Opportunity Areas for Out-of-School Youth program in order to receive advance-appropriations of \$250 million.

**E. After-School Initiative.** Your proposed expansion of the 21st Century Community Learning Center Program is quite popular and stands a decent chance of gaining the necessary support in the appropriations process, depending upon how much is available for education spending overall. While there is some additional work to ensure that Sen. Jeffords, who authored the program initially, remains supportive, our primary effort for this initiative should be to ensure that your continued association with it as it proceeds through the appropriations process

**F. Technology Initiatives.** Your FY99 budget includes over \$750 million in investments on educational technology -- with a new emphasis on technology training for teachers. Although we do not yet know what the Congressional response will be to the new initiatives -- we expect that the Congress will continue to support the Technology Literacy Challenge Fund. We should also expect some continuing controversy over the "e-rate" -- the FCC's discounts to connect schools and libraries to the Internet. The educational technology issue also gives us an opportunity to work closely with the private sector -- and to leverage federal funds. So we can expect victories in this area, and should make sure that we get appropriate credit and use that momentum.

## II. Picking Key Fights to Highlight Your Initiatives.

There are three issues that provide excellent opportunities to highlight your agenda and contrast it favorably with Republican proposals. These are also issues where you can unite Democrats and, if necessary, gain leverage with a veto threat and, in the Senate, a filibuster.

**A. School Modernization:** A cloture vote on Coverdell's education IRAs is expected on Tuesday. In consultation with Secretary Riley, Sen. Daschle has agreed to bring your school construction proposal to the floor as a substitute, setting up a battle between school construction and IRAs. On the substitute, we expect to be able to hold almost all Democrats (with exception of Lieberman and Torricelli), and there is a chance of gaining some Republican support as well. The education groups are working to mobilize grass roots support in favor of the construction initiative. While the odds are against winning this battle in the short run, defining the issue visibly at the outset will enable you to keep hammering away at this throughout the spring and summer.

**B. Education Opportunity Zones:** We are working with Rep. Clay to finish education opportunity zones legislation, and should schedule an event to announce it next month. Voucher

advocates are on their strongest rhetorical ground when they conjure up the image of a failing urban school and use this image to suggest that public education is failing more broadly, and argue that vouchers are needed to help save a few kids from a broken public education system. Your Education Opportunity Zones initiative squarely addresses the real problems highlighted by voucher advocates, but in a way that strengthens public schools and endeavors to help all students, not just a few. It is based on the premise that we can and must fix failing school systems and schools rather than abandoning them. It proposes to accomplish this with investments in accountability measures such as ending social promotions, intervening in failing schools, rewarding outstanding teachers and removing incompetent ones. If Congressional Republicans attempt to move a voucher proposal this year, this proposal is our best defense. In the meantime, you can repeat your call for sweeping, Chicago-style reforms. One opportunity will be to announce the first grant awards from the new Comprehensive School Reform program (included in last year's appropriations bill by Reps. Obey and Porter), which provides funds for implementing proven schoolwide reforms such as those developed by the New American Schools Development Corporation.

**C. Class Size Reduction:** The most popular element of your education agenda -- class size -- is worth a separate, concerted rollout. We believe that next month you should speak to the legislature in Delaware, where Governor Carper has proposed major class size reductions and an end to social promotions. The Education Department is developing a series of reports and other tools for you to announce (e.g., a summary of class size research, a white paper documenting how smaller classes can lead to better classroom practices, and state-by-state figures on how many new teachers can be hired under your proposal). The elementary and secondary education groups are able and eager to mobilize grass roots support. We may also have a chance to press this issue during the budget resolution debate, much of which will concern whether tobacco revenues can be used for child care and class size.

The fate of these three initiatives is likely to be determined at the end of the session, as work on tobacco legislation and tax and appropriations bills are hopefully completed. It is very unlikely that Republicans will give you victories on class size, school construction or opportunity zones unless they also get comparable victories on Coverdell or vouchers. While you will most likely have the greatest leverage to make deals at the end of the session, you may well have to decide at that time whether you would be willing to strike deals that give both you and the Republicans significant parts of your respective education agendas.

### **III. National standards and tests**

We face a tough challenge again in Congress this year. We fully expect Goodling to use the reauthorization of the National Assessment of Education Progress later this year to specifically prohibit national testing, and to keep Republicans pretty well united with him on this issue. While we were able to keep Black and Hispanic Caucus members with us on a clearly political vote on the tests earlier this year, we cannot count on their support in the future unless their concerns about the tests are addressed substantively. Further, while we will have our greatest leverage once again in the appropriations process, we expect that it will be at least as

difficult as last year to secure funding. To increase our odds of winning this battle, we are pursuing a number of steps to broaden our support. These include:

**Use NAGB and ACHIEVE to change the political dynamics around the tests.** Last year's appropriations agreement placed NAGB in charge of the tests. Since then, we have appointed Diane Ravitch and Gov. Engler to the panel, in an effort to bolster Republican support. NAGB has now taken complete hold of test development, and has made a series of policy decisions that should make the testing program less vulnerable to criticism from the right. While Goodling remains almost as hostile to NAGB's efforts as he was to the Education Department's, early indications are that NAGB is making positive inroads among other Republicans. We have encouraged NAGB to continue to keep members of Congress of both parties informed of its work, and Ravitch in particular to make the case to opinion leaders that the test development is on the right track.

Lou Gerstner and Achieve are prepared to play a more active role in supporting national standards and tests, in the context of Achieve's recently launched effort to help states compare individual student performance across states to each other and to common standards. Achieve's work parallels a provision in last year's appropriation's agreement, which called on the National Academy of Sciences to study how existing state tests could be used to compare students to national standards. We are working to set up an opportunity, such as a conference call with Achieve's Board of Directors or a one-on-one meeting with Gerstner, in which you can enlist Achieve's support. We expect that Achieve would be willing to advocate for Congressional support for a national test and for state efforts to align state tests to the NAEP standards.

We could also work quietly with Achieve to explore a way for it to take over the work of developing the tests, if it appeared that we could not sustain the necessary Congressional support for NAGB.

**Encourage Democrats to propose specific authorization for national tests.** Goodling has argued that we need specific Congressional authorization before national tests can be developed or administered. (As you recall, we have always maintained that we did not need new authorization, and we're using the same authority that Bush and Alexander used in proposing voluntary tests in 1991.) We expect Goodling to take up reauthorization of the National Assessment of Education Progress later this spring, and to include a specific prohibition on national tests in that bill.

To counter this, we are working with George Miller in the House, and Kennedy and Bingaman in the Senate, to propose their own legislation to authorize national testing, to be considered as part of the reauthorization of the National Assessment of Education Progress. We would work with them on the details of the bill, but make sure the legislation was seen as theirs rather than ours. This would leave them free to cut whatever deals were needed in each body to build support for the legislation, and not require us to own whatever they came up with. It

would also leave us free to continue to argue that we already have sufficient authorization to proceed with test development, and to fight the testing battle on the appropriations bill.

In the House, our first priority must be to hold Democrats together, in order to have a chance of peeling any Republicans away from Goodling. This will be difficult, because there is little support for testing from significant portions of the Black and Hispanic caucuses under any circumstances. To have a chance of holding the caucuses, Miller would almost definitely have to craft a proposal that includes a Spanish-language version of the reading test, a prohibition on use of the tests for high stakes purposes, protections against test bias, and detailed requirements for how the test results would be reported. The provisions that will unite Democrats are least likely to appeal to Republicans, so the more likely result is partisan polarization. Nonetheless, that, may leave us better positioned than before to conduct a high profile fight with Republican opponents of the testing.

The situation in the Senate remains more favorable than the House. There the task for Kennedy and Bingaman will be to craft a proposal that can hold as much Republican support as possible. While it is too early to determine the shape of such a proposal, last year's experience suggests that steps to strengthen NAGB and further guarantee its independence will be necessary. The Achieve recommendations are likely to play a role in shaping a Senate bill as well.

The chances that this approach will lead to authorization bills that pass both houses is remote at best. However, these steps are necessary to hold and expand our support in both houses, to defend against efforts by Goodling and Ashcroft to ban further work on the test, and to remove Goodling's basis for drawing support on the procedural grounds that testing should not proceed without Congressional involvement.

**Pursue an appropriations strategy to enable work to continue on test development.** The most important Congressional action regarding national tests will come in the appropriations bill, where we must fight to ward off any proposals to prohibit further work and to retain funding to enable continued development work. The steps outlined above will better position us for a replay of last year's battle, by better holding Democrats in the House and by taking away Goodling's charge that the authorizing committees have been cut out of the process. Nonetheless, it is likely that you will also have to threaten to veto any appropriations bill that ends funding for the test. This could pose a tough dilemma for the Republicans one month before the election.

#### **IV. Conducting a National Education Campaign.**

**A. Campaign for Education Initiatives.** Because this could prove to be a worse-than-do-nothing Congress on education, it is worth a separate discussion on how to transform America's schools without help from Washington. The TIMSS roundtable on Monday is an opportunity to begin that discussion. We believe the bully pulpit can be effective,

and a high-profile effort targeted at urban school districts might make a real difference, but the last two decades suggest it will be very difficult. Nevertheless, our legislative agenda and the standards movement can only benefit from a vigorous national campaign for education reform. The campaign should consist of events and actions in support of specific legislative proposals, events that promote your comprehensive education package, and events that promote state, local and business action for education reform regardless of Congressional action.

Specific events we are planning include:

- The upcoming meeting with leaders from business, education and state and local government to focus public attention on the TIMSS results.
- An address to a state legislature to promote your overall education package with an emphasis on class size reduction. The Education Department is working on a White Paper on the benefits of class size reductions that could be released at this speech.
- A visit to an urban school district that illustrates key aspects of your Education Opportunity Zones proposal, such as ending social promotions, intervening in failing schools, removing incompetent teachers or rewarding teachers who achieve certification from the National Board of Professional Teaching Standards. This could be timed to accompany the transmittal or introduction of legislation, or the release of an Education Department report on turning around failing schools.
- An event with CEO's and governors on the ACHIEVE Board of Directors in support of national standards and tests.
- An event with teachers and CEOs that would demonstrate your commitment to technology training for teachers, in the same way that NetDay dramatized the importance of connecting schools to the Internet. The event could highlight (a) companies that are forming partnerships with teachers colleges to train all new teachers; and (b) states that have made a commitment to include "technological literacy" as part of the teacher certification process.
- An event that showcases the benefits of educational technology in key areas such as (a) increasing communication between parent and teachers; (b) improving performance in key subjects such as math, science, and reading; and (c) providing parents with an easy to understand "report card" of how their local school is doing relative to other schools.
- An event that is timed to the availability of funding for the Technology Literacy Challenge Fund, the "e-rate," or significant donations from the private sector.
- A meeting with mayors during a U.S. Conference of Mayors Conference on Public Schools, to be held in May.

- Following up on your Hispanic investments, you could speaking at a conference on School Dropouts, sponsored by Brookings or another think-tank or foundation.
- A roundtable discussion with business and education leaders about "making performance count" for students, by supporting a growing nationwide effort by employers to examine high school transcripts and other indicators of academic performance in the hiring process.
- A commencement address at a public high school, or charter school, to underscore your efforts to strengthen public education.
- A White House Conference on Strengthening Public Schools, to kick off back-to-school events in the Fall.
- The release of reports on school violence from the Education and Justice Departments
- Vice Presidential involvement in a series of forums and a Fall symposium on modernizing schools.
- The release of a report on Saving for College (to highlight our Higher Education Act proposal to stop punishing savings through the student aid formula).
- Depending on the the recommendations in a report to be released next Wednesday by the National Academy of Sciences on "Preventing Reading Difficulties in Young Children," consider making a comment in order to reinforce the need for our reading initiative, class size reduction, and perhaps other efforts.
- Announce 1,000 colleges participating in the America Reads Work-Study challenge (we will reach that number in a month or so).
- Possible signing ceremonies before July 1 on: G.I. Bill for American Workers, reducing student loan interest rate, America Reads, and Charter Schools.
- Visit a college that has made a dramatic commitment to the America Reads effort (such as NYU, with more than 600 tutors).
- Highlight bipartisan support for High Hopes, perhaps as soon as next week when the proposal may get Committee support.
- Visit model High Hopes-type early intervention program, and/or attend announcement of new partnerships created in response to your challenge.

Over the longer term, we could begin planning an event to mark the 10 year anniversary of Charlottesville National Education Summit (September 1999) or the establishment of the National Education Goals (February 2000). Governors, business leaders and many in the education community are beginning to anticipate these anniversaries and think about how best to use them to provide additional impetus for education reform. In light of your personal leadership at the Charlottesville Summit and in the subsequent establishment of the Goals, it would be natural for you to lead the effort to look back on what has been accomplished and to lead the way to define the work ahead.

**B. Campaign on Higher Education.** In addition to campaigning for our education initiatives, we will be ready to kick-off our "Campaign on Higher Education" sometime in the next 4-6 weeks. This year-long campaign -- which will include events, roundtables, and dissemination of easy-to-read information packets -- will inform every American that college is now affordable.

The focus will be on three key groups: (1) high school/college students who benefit *today* from the historic expansion in college aid; (2) middle and junior high school students and their parents so that we help put them on track for college; and (3) those working adults who need additional skills, but do not know about the availability of aid to go back to school.

For our kick-off of the campaign, the Department of Education is finalizing a pamphlet promoting the affordability of college. This pamphlet will be sent to every high-school and middle-school in the country and we will ask every school to photo copy it so that every student receives the information directly. In addition to this pamphlet, we are working with the Department of Education on a series of PSAs on college affordability, an interactive Web site, and other ways of disseminating what we've done to make college more affordable.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Christopher C. Jennings ( CN=Christopher C. Jennings/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:14-MAR-1998 17:39:01.00

SUBJECT: Kennedy-kassebaum ruling

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

TO: Rahm I. Emanuel ( CN=Rahm I. Emanuel/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

TEXT:

Elena asked me about our response to a GAO report that was released at the end of this week. The GAO study confirmed a Robert Pear article from a few months ago which reported that insurance agents were discriminating against individuals with preexisting conditions who are attempting to purchase insurance under the new Kassebaum-Kennedy law.

Over the last several months, we have been trying to get HCFA to develop a ruling that explicitly instructs states that these types of practices are unlawful under Kassebaum-Kennedy. Today, Nancy-Ann informed me that such a ruling may well be available for release next week. Since we have moved the Medicare buy-in event to Tuesday, one option might be to integrate this in the President's departure statement on Wednesday. We will be getting paper on what might be available on Monday morning. As soon as we know more we will inform you.

It would be helpful to know whether we should make this a priority or not.

cj



**PRESIDENT CLINTON CONVENES TOP LEADERS  
CHALLENGES NATION TO IMPROVE MATH AND SCIENCE EDUCATION**

*March 16th, 1998*

President Clinton convened leaders from government, business, education, and the scientific community to discuss how the nation should respond to recent findings from the Third International Math and Science Study (TIMSS) that while U.S. 4th graders are near the first in the world in science and above average in math, U.S. 12th graders lagged below the international average in both subjects. The President called on the nation to move forward on his bold plan to improve American education and issued new challenges to boost student achievement in math and science. He also announced new on-line math and science help for parents, teachers, and students.

**A CHALLENGE TO IMPROVE MATH AND SCIENCE EDUCATION** Improved math and science is critical for preparing our students and nation for the 21st century and must be a national priority. President Clinton challenged Governors, business leaders, universities, schools, teachers, parents, and students to take the steps necessary to boost student achievement in math and science.

**Reducing out-of-field teaching.** The President challenged states to reduce the percentage of math and science teachers without a major or minor in their subject area. The average K-8th grade math teacher takes only three undergraduate math courses. Twenty-eight percent of secondary math teachers lack a major or minor in their subject area, as do 18% of secondary science teachers and 55% of physics teachers.

**Rigorous Tests for New Teachers.** To help address this challenge, the President called on states to require all new teachers of math and science to pass challenging tests of math or science knowledge and teaching proficiency. With nearly half of our nation's teaching force to be replaced over the next several years, raising standards of teaching and learning now can boost the quality of our schools for decades.

**A Call to Action for Schools, Students, and Parents.** The President also challenged schools to offer and students to take tough math and science courses for all students in middle school and high school. Just a quarter of U.S. students take algebra before high school, and only 25% of U.S. high school students take physics. He called on parents to insist on finding out how their children are doing compared to national standards and international benchmarks; today, no parent can find out how his or her son or daughter meets the international standards in TIMSS.

The President called on the nation to take the steps necessary to boost student achievement in math and science and encouraged young people with proficiency in math and science to consider careers in teaching.

**PRESIDENT CLINTON'S EDUCATION AGENDA: MAKING OUR ELEMENTARY AND SECONDARY SCHOOLS THE FINEST IN THE WORLD** These findings provide another clear reminder of the importance of President Clinton's bold plan to improve American education and boost student achievement in math, science, and other academic subjects.

**Voluntary National Standards and Tests in Math and Reading** . In his 1997 State of the Union Address, President Clinton challenged every state to adopt high national standards

and to test every 4th grader in reading and 8th grader in math to make sure these standards are met. Rigorous 8th grade math testing can help make sure that middle school students are prepared to succeed in tough math and science courses in high school. Voluntary national tests are being developed under the control of the bipartisan, independent National Assessment Governing Board.

**Smaller Classes with Well-Prepared Teachers.** President Clinton is proposing to help local schools provide small classes with well-prepared teachers in the early grades. The new initiative will help hire an additional 100,000 well-prepared teachers and reduce class size in grades 1-3 to a nationwide average of 18. The President is also proposing support for training teachers in math, science, and technology and for recruiting quality teachers into poor schools and high-need subjects like math and science.

**Modern School Buildings to Improve Student Learning.** In order for students to learn and to compete in the global economy, schools must be well-equipped and they must be able to accommodate smaller class sizes. That's why President Clinton is proposing Federal tax credits to pay interest on nearly \$22 billion in bonds to build and renovate public schools.

**Education Opportunity Zones: Ending Social Promotion and Fixing Failing Schools.** The President's budget contains support for urban and rural school districts undertaking tough reforms including ending social promotion and fixing failing schools. This initiative would help students meet promotion standards at selected grades, help turn around failing schools, and expand parental choice among public schools.

**Technology for Our Schools and Rigorous Math and Science Courses for Our Students.** The President's plan would ensure that all of our children get access to the "information superhighway". His "High Hopes" plan would support partnerships to get access to rigorous math and science courses needed to prepare them for college. The President's budget also contains \$60 million to improve math and science curriculum and teaching in middle school.

**NEW ON-LINE ASSISTANCE FOR PARENTS, STUDENTS, AND TEACHERS** President Clinton announced two new on-line resources developed by the U.S. Department of Education and other agencies.

**"Federal Resources for Educational Excellence" (FREE) Web-site.** A new website is available today to connect teachers, parents, and students to teaching and learning resources in math, science, and other subject areas from NASA, the Energy Department, the National Science Foundation, and other agencies.

**The TIMSS on-line challenge.** The U.S. Department of Education will launch this fall a website that puts TIMSS math and science problems on-line. This will enable parents to give a quiz to their children, learn what their children should know in math and science to be internationally competitive, and learn how their children are doing compared to students from other countries.

**RECENT STUDY SHOWS NEED TO BOOST ACHIEVEMENT IN MATH AND SCIENCE**  
TIMSS showed that U.S. 12th graders scored among the lowest of 21 nations in general math and science. Performance of U.S. 12th graders in advanced math and physics courses also lagged behind their peers from other nations. The 12th grade findings completed a multi-year study showing U.S. 4th graders near the first in the world in science and above average in math, with U.S. 8th graders slightly above the international average in science and below the international average in math.

While other tests (including the National Assessment of Educational Progress) show that U.S. student achievement is improving, TIMSS makes clear these improvements are not rapid enough to keep pace with other nations in an increasingly global economy.



**Tobacco Q&A**  
**March 16, 1998**

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**Q: What was the announcement today by tobacco farmers and public health groups?**

A: A coalition of public health groups and tobacco producers announced a set of core principles for national tobacco legislation. Among the organizations agreeing to the principles are the Burley Tobacco Growers Cooperative, the Flue-Cured Tobacco Stabilization Corporation, the American Heart Association, the American Cancer Society, and the Campaign for Tobacco Free Kids. The principles are geared toward reducing disease caused by tobacco products while simultaneously ensuring the future prosperity of tobacco farmers and their communities. The principles discuss subjects such as FDA authority, limits on tobacco advertising to children, and providing fair and equitable compensation for tobacco farmers and their communities.

**Q: Does the President support this effort?**

A: The President strongly supports the effort to build a coalition between farmers and public health groups, and in his statement today the President congratulated the coalition for its work thus far. The President has made protecting farmers and their communities one of the five key elements that must be part of any comprehensive tobacco legislation he will sign. The coalition's effort and principles are an approach that is consistent with the President's policy on comprehensive tobacco legislation and he looks forward to working with these groups in the future.

**Q: What is the significance of this announcement for the future of tobacco legislation?**

A: The agreement between tobacco producers and public health groups demonstrates the potential to craft bipartisan comprehensive solutions that meet the goals of both the public health and tobacco farming communities. The Administration believes that it will be possible to form a similar consensus in Congress, and that the announcement today is another important step in enacting comprehensive legislation this year.

**STATEMENT OF THE PRESIDENT OF THE UNITED STATES  
MARCH 16, 1998**

**I congratulate the public health and tobacco producer communities for working together to promote bipartisan, comprehensive tobacco legislation that dramatically reduces youth smoking and protects American farmers and their communities. I am firmly committed that tobacco legislation protect farmers and their communities, and have made this commitment one of the five key elements that I will insist upon before signing tobacco legislation. I hope you will continue your efforts to expand your coalition and to enact comprehensive tobacco legislation this year that protects our Nation's children.**

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jonathan H. Schnur ( CN=Jonathan H. Schnur/O=OVP [ UNKNOWN ] )

CREATION DATE/TIME:15-MAR-1998 16:38:42.00

SUBJECT: H1B Visas Mtg. Tuesday

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

READ:UNKNOWN

Jonathan H. Schnur ( CN=Jonathan H. Schnur/O=OVP [ UNKNOWN ] )

READ:UNKNOWN

TEXT:

Elena --

I think I have my first question for you about how to incorporate my work for the VP into my new job.

Don Gips asked me last week to keep tabs on the H1B and related training issues for the VP. The VP has a substantive interest in many of the training issues involved here, as well as ongoing work with the communities interested in this issue. Don asked if I could get a written briefing to the VP and give him a chance to weigh in before the next decisions are made about how to proceed. I have spoken with Cecilia Rouse about the training issues and Julie Fernandes about the issue generally, and Julie suggested that I get your guidance. A few q's:

- 1) When will the next set of policy or tactical decisions about this issue be made?
- 2) When do you think an appropriate time would be to give the VP a briefing memo on this? Who would be the best person (s) to do it. I am happy to write a draft or help write a draft.
- 3) Don's interested in my participating in the mtgs and work on this issue. Would this be OK? Would it be OK for me to come to Tuesday's mtg?

Thanks Elena!! -- Jon Schnur, (6-5567)

----- Forwarded by Jonathan H. Schnur/OVP on 03/15/98  
04:34 PM -----

Julie A. Fernandes @ EOP  
03/13/98 05:41:53 PM

Record Type: Record

To: Jonathan H. Schnur/OVP

cc:

Subject: H1B Visas Mtg. Tuesday

FYI.

----- Forwarded by Julie A. Fernandes/OPD/EOP on 03/13/98  
05:53 PM -----

Laura Emmett  
03/13/98 11:54:34 AM  
Record Type: Record

To: See the distribution list at the bottom of this message  
cc: Miriam H. Vogel/WHO/EOP, Alissa K. Brown/WHO/EOP, Gay L.  
Joshlyn/OPD/EOP  
Subject: H1B Visas Mtg. Tuesday

THERE WILL BE AN INTER-AGENCY MEETING RE: H1B VISAS  
Tuesday, March 17, 1998  
5:00 PM  
Room 472

White House  
Elena Kagan, DPC  
Julie Fernandes, DPC  
Sally Katzen, NEC  
Cecilia Rouse, NEC  
Tom Kalil -- NEC  
Anne Lewis -- NEC  
Peter Jacoby, Leg. Affairs  
Cliff Gabriel, OSTP  
Rob Weiner -- Counselor's Office  
Maria Echaveste, OPL  
Steve Warnath

INS  
Paul Virtue 514-8223  
Barbara Strack 514-3242  
Robert Bach 514-3242

Department of Labor  
Seth Harris 219-6181  
Ray Uhalde 219-6050  
John Fraser 219-8305

Department of Commerce  
Kent Hughes 482-6315  
Andrew Pincus 482-4772

Department of State  
Steve Fischel 663-1184

Message Sent

To: \_\_\_\_\_  
Julie A. Fernandes/OPD/EOP  
Thomas A. Kalil/OPD/EOP  
Anne H. Lewis/OPD/EOP  
Robert N. Weiner/WHO/EOP  
WARNATH\_S @ A1 @ CD @ VAXGTWY  
Maria Echaveste/WHO/EOP  
Sally Katzen/OPD/EOP  
Cecilia E. Rouse/OPD/EOP

Clifford J. Gabriel/OSTP/EOP  
Peter G. Jacoby/WHO/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-MAR-1998 14:39:13.00

SUBJECT: Tradeable Welfare Tax Credits

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

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

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

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

TEXT:

Andrea and I attended a meeting at Treasury on Friday where we discussed various options for welfare tax credits. Treasury was very opposed to giving non-profits tax credits either directly or through a syndication scheme (where private investors take the tax credit for the non-profit).

However, they said they would continue looking into the ability of the credits to be maximized by taxable businesses after they have hired an employee from an intermediary. Specifically, they are going to explore the ability of a private business to take the second year of the welfare credit even though the person may have been on the payroll of the intermediary for all or part of the first year. Finally, they are going to look into ways to clarify existing law so that the use of intermediaries is encouraged and the availability of the credit is made more well-known. Thanks, Mary

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sarah T. Holewinski ( CN=Sarah T. Holewinski/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:16-MAR-1998 17:35:00.00

SUBJECT: Needle Exchange Talking Points

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

Sandra Thurman ( CN=Sandra Thurman/OU=OPD/O=EOP [ OPD ] )  
READ:UNKNOWN

TEXT:  
ABBREVIATED TALKING POINTS ON NEEDLE EXCHANGE

The Clinton Administration  
A Record of Fighting the AIDS Epidemic

It has been more than 15 years since the epidemic of HIV/AIDS struck our nation. In that time, more than 600,000 Americans have been diagnosed with AIDS and more than 300,000 men, women, and children have died of AIDS. President Clinton has worked hard to reinvigorate the response to HIV and AIDS, providing new national leadership, substantially greater resources, and a closer working relationship with affected communities.

Overall Increases. Since President Clinton took office in 1993, overall funding for AIDS related programs has increased by more than 55%.

Supported the Ryan White CARE Act. President Clinton in five years has tripled funding for the Ryan White CARE Act, the largest distributor of funds for medical and support services to people living with HIV and AIDS. In 1996, the Administration earmarked Ryan White funds for the AIDS Drug Assistance Program to help those without insurance obtain much needed prescription drugs; since then, ADAP funds have increased by 450%.

Supported the National Institutes of Health. The Administration has increased NIH AIDS research funds by 50% in five years. In 1993, President Clinton signed the NIH Revitalization Act creating a permanent Office of AIDS Research at NIH and investing it with new authority to plan and carry out the AIDS research agenda.

Accelerated AIDS Drug Approval to Record Times. Since 1993, the Food and Drug Administration has approved 9 new AIDS drugs, 20 new drugs for AIDS-related conditions, and three new diagnostic tests. Included in the approvals are a class of drugs known as protease inhibitors, which, in combination with previous drugs, have shown tremendous promise in the

treatment of HIV progression.

Pushed for an AIDS Vaccine. On May 18, 1997, the President challenged the nation to develop an AIDS vaccine within the next ten years. He has supported that goal by dedicating an AIDS vaccine research center at the National Institutes of Health and encouraging domestic and international collaboration among governments, medical communities and service organizations.

Increased Access to HIV Prevention Services for Youth. In a directive issued on World AIDS Day 1997, President Clinton instructed each Federal agency to identify all programs under its control that offer opportunities to youth for preventing HIV infection and develop within 180 days a plan through which those programs can increase preventative education as well as support services for those already infected.

Protected Medicaid. The President fought to preserve Medicaid coverage for people living with AIDS. Nearly 50% of people with AIDS and 92% of children with AIDS rely on Medicaid for health coverage. He also revised eligibility rules for Social Security Disability Insurance to increase the number of HIV+ persons who qualify for benefits.



**PRESIDENT CLINTON JOINS DEMOCRATS TO UNVEIL LEGISLATION GIVING AMERICANS AGES 55 TO 65 NEW HEALTH INSURANCE OPTIONS AND RELEASES STATE-BY-STATE STUDY WHICH UNDERSCORES NEED FOR THIS POLICY**

**March 17, 1998**

Today, President Clinton joined Democrats on the Hill to unveil legislation that would provide Americans ages 55 to 65 health insurance options and urged Congress to send it to him for enactment. This targeted, paid-for proposal will give an estimated 300,000 to 400,000 vulnerable Americans new choices for more affordable health care coverage. The President also released a state-by-state analysis that documents the need for this policy.

**RELEASED NEW STATE-BY-STATE STUDY THAT DEMONSTRATES THE DIFFICULTY AMERICANS AGES 55 TO 65 HAVE ACCESSING HEALTH INSURANCE.** The report the President released today underscores the difficulty Americans ages 55 to 65 have accessing health insurance. The new report, prepared by the Domestic Policy Council and the National Economic Council, found that:

**Five million -- or twenty-two percent of Americans ages 55 to 65 -- are either uninsured or insured through the individual insurance market.** In some states, such as North Dakota, Texas and Nebraska, the percentage of these individuals is as high as 30 percent.

-- **Three million are uninsured.** Some Americans ages 55 to 65 lose their employer-based health insurance when their spouse (frequently the husband) becomes eligible for Medicare. Many lose their coverage because they lose their jobs due to company downsizing or plant closings. Still others lose insurance when their retiree health coverage is dropped unexpectedly.

-- **Many are left to buy into an unaffordable individual insurance market, where premiums can be as high as \$1,000 per month.** Individual insurance can be prohibitively expensive, particularly for those who have pre-existing conditions.

**In 38 states, individual insurance policies can be denied outright.** Sixteen million Americans ages 55 to 65 -- 76 percent of this population -- live in one of the 38 states where individual insurance can be outright denied. This often leaves these individuals no where else to turn for health care coverage.

**In twenty-one states there are no protections to assure pre-existing conditions are covered.** In these states, where 8 million, or 36 percent, of 55 to 65 year olds live, there are no protections against pre-existing condition exclusions in the individual market. This means that individuals may not be able to get coverage for the care they need most, such as diabetes management or cancer treatment.

**There are no protections against exorbitant premiums in forty states.** In these states, where 16 million Americans ages 55 to 65 live, individuals have no protections against exorbitant premiums based on age or health status. .

**UNVEILED LEGISLATION THAT ALLOWS AMERICANS NEW CHOICES TO ACCESS HEALTH CARE COVERAGE.** The legislation unveiled on the Hill today provides new health insurance options for Americans ages 55 to 65. This legislation is being introduced by a numerous Democrats, including both Democratic leaders [Senator Daschle and Congressman Gephardt] as well as all the ranking Democrats on the Committees of Jurisdiction: Senators Moynihan and Rockefeller and Representatives Rangel, Stark, Dingell, and Brown. It:

– **Enables Americans ages 62 to 65 to buy into Medicare,** by paying a premium.

– **Provides displaced workers over 55 access to Medicare** by offering those who have involuntarily lost their jobs and their health care coverage a similar Medicare buy-in option. Such workers have a harder time finding new jobs: only 52 percent are reemployed compared to over 70 percent of younger workers.

– **Allows retirees ages 55 and older whose employers dropped their health coverage access to former employers' health plan.** This allows retirees whose employers dropped their health coverage after they have retired buy into the employer's health plan through "COBRA" coverage.

**CONFIRMED THIS IS A PRUDENT, TARGETED PROPOSAL THAT GIVES AMERICANS AGES 55 TO 65 NEW CHOICES WITHOUT HARMING MEDICARE.** The Congressional Budget Office recently released estimates that validate that the Medicare buy-in proposal is a carefully targeted policy that will not burden the Medicare Trust Fund.

– **Paid for by premiums and anti-fraud and overpayment savings.** Under this proposal, participants would pay the premium in two parts: most up front (the base premium) and a part after they turn 65 years old (the risk portion of the premium that accounts for the fact that less-than-healthier beneficiaries may be likely to opt for this policy). Medicare would in effect "loan" participants the second part of the premium until they reach 65 when they would make a small payment as an add on their regular Medicare Part B premium. This means there will be temporary costs to the Medicare program, which is paid for, dollar-for-dollar, by a series of anti-fraud and anti-overpayment initiatives.

– **Separate Trust Fund.** The buy-in takes advantage of Medicare's low administrative costs and choice of providers and plans, but its financing is kept completely separate from the Medicare Trust Fund.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-MAR-1998 11:55:07.00

SUBJECT: melissa

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

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

TEXT:

I called and left a message but she wasn't there. Kevin Thurm says HHS would like to be able to say Shalala has asked for a scientific review (as a way to take some wind out of calls for her resignation). We ignored this last week, but may want to discuss today.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-MAR-1998 11:28:59.00

SUBJECT: briefing book for afl-cio

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

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

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

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

TEXT:

you probably already heard from staff secretary about the briefing book -- we are going to use it both for the potus and vp --- the only hot issue that i know will be raised will be the fica/futa --- you may know of others.

also, the vpotus may be doing a round table on friday (late) in los angels with the executive board of the california teachers --- they want to talk about charter schools and california technology partnership -- any thoughts/ideas would be helpful

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-MAR-1998 21:35:45.00

SUBJECT: Is a meeting on youth lookback penalties possible at 11:00 on Tuesday?

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

READ:UNKNOWN

CC: Jill M. Pizzuto ( CN=Jill M. Pizzuto/OU=OMB/O=EOP @ EOP [ OMB ] )

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

since we have no Bowles meeting? We need to regroup post Hill, and now McCain is asking us questions. I'll leave voice mails for Gruber and Claxton. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-MAR-1998 12:15:42.00

SUBJECT: Public Health/Farmers Press Conference Today

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

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

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

TEXT:

I went to the press conference today. The President's statement was read. The National Black Farmers were there, and they asked that the President assist them as he stated he would in the meeting he had in December. Questions were asked about what it would take to make farmers whole, and Andrew Shepherd from the Flue-Cured Tobacco Cooperative Stabilization Corporation answered with the following three points: 1) compensation for quota-holders; 2) transition payments to tobacco communities; and 3) cigarettes sold here should contain U.S. tobacco. Rod Kugel from the Burley Tobacco Growers Cooperative indicated that he thought that all the farmers were only a couple weeks away from uniting behind one legislative proposal. Thanks, Mary



**Agenda/Decision Items**  
**INS Restructuring Meeting -- March 16, 1998**

**A. Outstanding Restructuring Issues**

Automated Records Management System  
Hex-Dump Conversion

1. Booz Report
  - Placement of Shared Service Organization
  - Creation of Enforcement Officer Corps
2. CIR Recommendation
  - Consolidation of Adjudication Functions

**B. Rollout Issues**

1. Administration Report
  - Cover Letter Signed by Reed/Reno/Raines
    - Brief description of the review process
    - Executive summary of Administration restructuring plan
  - Side-by-side comparison of CIR/Administration plan as attachment to the letter
  - Booz Report
2. Letters of Support to Chairman Rogers
  - Letters from Secretaries of Labor and State voicing support for the Administration plan
    - Prepared to coincide with the submission of the Administration plan on March 31.
3. Schedule of Senate/House Authorization Committee Hearings
4. Timing of Reprogramming Notification to Appropriators/Draft Implementing Legislation
  - Develop legislative language

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-MAR-1998 15:13:16.00

SUBJECT: Re: briefing book for afl-cio

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

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

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

TEXT:

Re Karen's attached note, I will get a Q&A in on FICA/workfare by cob tomorrow, after running it by Elena. Karen says that the VP is very likely to get a question from McEntee along the lines of, "Are you really planning to sell us out with a Treasury ruling that exempts workfare positions from FICA taxes?"

Karen Tramontano  
03/16/98 11:27:36 AM  
Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Diana Fortuna/OPD/EOP,  
Michael Cohen/OPD/EOP  
cc:  
Subject: briefing book for afl-cio

you probably already heard from staff secretary about the briefing book -- we are going to use it both for the potus and vp --- the only hot issue that i know will be raised will be the fica/futa --- you may know of others.

also, the vpotus may be doing a round table on friday (late) in los angels with the executive board of the california teachers --- they want to talk about charter schools and california technology partnership -- any thoughts/ideas would be helpful

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Andrea Kane ( CN=Andrea Kane/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:16-MAR-1998 14:39:35.00

SUBJECT: Potential VP Events 3/22-4/3

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

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

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

TEXT:

Federal welfare-to-work hiring initiative

An event to mark the first year anniversary of the federal welfare-to-work hiring initiative is currently pending in the VP scheduling process. The event could include: release of the first annual report from the VP, announcement of the most recent hiring numbers, and a challenge to cabinet secretaries to reach out to federal contractors to get more involved in hiring welfare recipients. The audience would include several hundred federal contractors from the Washington area, so we will need a little lead time for the agencies to invite them. This was originally submitted by NPR staff on 2/13/98. Late last week, VP scheduling asked Susan Valaskovic to revise slightly, so apparently it's still under consideration.

Welfare Caseload Numbers

HHS is working on getting updated caseload data through December 1997 (last data released, with SOTU, was September 1997). They hope to have them to us early next week. The VP could announce these as part of the above event, or in a separate announcement. If separate, we could possibly combine with an announcement of DOL approval of more Welfare-to-Work formula grants to states. TN is one of those in the pipeline and I know the VP's office is interested in releasing that one. I hope to be able to confirm timing on caseloads and WTW approvals at our weekly welfare reform meeting w/ agencies 3/17.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Andrea Kane ( CN=Andrea Kane/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:16-MAR-1998 14:57:43.00

SUBJECT: Cars for welfare recipients

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

READ:UNKNOWN

TEXT:

In the process of developing the joint guidance from HHS, DOL and DOT on using TANF and WtW funds for transportation, an issue has been raised about whether either funding source can be used to buy a car for a welfare recipient. We're interested in your reaction.

HHS' lawyers believe TANF funds can be used this way, but there is concern--particularly on OMB's part--about whether we should specifically mention this in the guidance. In the current version, HHS mentions using TANF funds for loans to help someone lease or purchase a car. Even if not mentioned, we need to be prepared with a response when some state or community asks if this is allowable.

DOL strongly opposes using WtW funds to purchase cars for individuals. They have several arguments including the time-limited nature of WtW funds, the more limited amount of funding compared to TANF, the fact that if TANF can be used for this purpose than we fail the 'if not otherwise available' test on WtW supportive services. More generally, they're concerned about appearances and potential IG issues. Also, under JTPA, capital items over a certain dollar amount (\$5,000?) belong to the federal government. We're exploring whether DOL might entertain allowing car purchases for individuals if they were under this limit.

A few states/counties have car purchase initiatives, but on an extremely limited scale and usually in partnership with banks or non-profits who are involved in financing. We do not think anyone is inclined to do this on a large scale, but it does seem to be an option we should consider if it helps someone succeed on the job.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-MAR-1998 18:51:07.00

SUBJECT: What do we think of Shalala letter to Shaw on family formation measures in

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: Andrea Kane ( CN=Andrea Kane/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

HHS would like to send a letter to Shaw in response to his very strong letter that criticized the high performance bonus guidance for omitting a family formation measure. They are in a hurry because they want this out before Olivia's hearing in the House on Thursday.

In case you never had a chance to read that letter, it says that selecting just one of the four goals of TANF is "illegal". In response to our argument that the illegitimacy bonus should take care of some of the other goals, he wrote, "I can assure you that Congress deliberately included what amounts to a double bonus for reducing illegitimacy and increasing marriage. So important are illegitimacy and divorce as national problems that Congress decided to give substantial rewards to states that reduce nonmarital births or increase the percentage of children living in two-parent families."

HHS's proposed letter back to Shaw is below. The threshold question for us is whether we want to accommodate Shaw in the NPRM in some way, or whether we are prepared to endure his ire and ignore him. This will determine the tone we want in the letter. This draft seems reasonable to me, unless we have no plans whatsoever to accommodate him. What do you think?

Dear Congressman Shaw:

Thank you for your letter of March 5 concerning the "Draft Potential Specifications for Interim Award of High Performance Bonus (FY 1999)." I value your perspective on this very important matter.

The proposed specifications are intended to be included in guidance that would be effective only in the first bonus year. They were developed in consultation with the National Governors' Association, the American Public Welfare Association, the National Conference of State Legislatures and State representatives. I believe that they reflect the most integral aspects of work in welfare reform. The four work measures we will use to award the first year High Performance Bonus (HPB) reflect all aspects of a

state's success in moving families from welfare to employment-based self-sufficiency. Full success requires recipients not only to get jobs, but sustain them, and to increase their earnings in order to be independent and capable of supporting their families. [Necessary?]

In our extensive consultations, we explored a range of measures addressing family formation and stability. We moved ahead with respect to work, because we believed it was vital for states to have guidance with respect to how FY 1998 performance would be measured. However, we had difficulty in identifying discrete measures that would provide effective incentives to states to design programs and policies that would achieve the objectives of TANF and for which a reliable data source existed or could be quickly developed. I remain committed to exploring measures that encompass all of the goals of TANF, including family formation and stability, for the HPB in future years and will seek advice on this matter through the Notice of Proposed Rulemaking process.

I appreciate your support for the role of the HPB as a key tool in making welfare reform successful. I remain firm in my belief in the importance of our continuing to work with your committee in all matters, including the development of HPB for future years, and have asked Assistant Secretary Golden to meet with your staff in preparation for the Notice of Proposed Rulemaking.



But legislation should not adopt the burdensome procedural requirements in the proposed settlement. These new requirements are unnecessary because the FDA procedures already provide ample opportunities for input from the public, the scientific community, and the industry. At the same time, these procedures would significantly hinder the agency's ability to regulate in a manner that best serves the public health.

For example, FDA must currently issue a notice of proposed rulemaking for the establishment of a performance standard. This notice must include a finding with supporting justification that the performance standard is appropriate and necessary to provide reasonable assurance of the safety and effectiveness of the device and proposed findings with respect to the risk of illness or injury that the performance standard is intended to reduce or eliminate, and invite interested persons to submit an existing performance standard for the device, including a draft or proposed performance standard, for consideration by the Secretary. Upon request of an interested party and good cause shown, FDA is required to refer a proposed regulation for a performance standard to an advisory committee. After all relevant processes are complete, FDA then issues a final performance standard regulation, which is subject to judicial review pursuant to the arbitrary and capricious standard. If a new concerns with the standard later arise, FDA regulations explicitly provide for citizen's petitions that would allow interested parties to seek redress from the agency.

The proposed settlement would impose significantly greater procedural requirements—formal rule-making procedures. Formal rulemaking is enormously resource-intensive and lengthy because it requires an ALJ hearing at which witnesses are presented, factual determinations by the ALJ, and review of the ALJ decision by the Commissioner. The final decision and standard is review able based on a substantial evidence standard in which FDA would have the burden of proof. In addition, if a standard is ever issued, parties may immediately petition FDA to seek judicial review of whether a particular modification has resulted in the creation of significant demand for contraband and seek judicial review. These provision would have the effect of consuming the agency in endless administrative and judicial processes. By contrast, current law provides considerable opportunity for public participation in the development and revision of performance standards.

As this example shows, the heightened requirements in the proposed settlement are unnecessary and would significantly hinder the agency's ability to regulate in the manner that best serves the goal of protecting the nation's health and minimizing future health care costs.

**Lastly, (transition to "It has also been argued")**

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jose Cerda III ( CN=Jose Cerda III/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:16-MAR-1998 13:03:18.00

SUBJECT: Aids Council Meeting Press Conference

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

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

CC: Leanne A. Shimabukuro ( CN=Leanne A. Shimabukuro/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TEXT:

FYI -- I take it this is not news for those of you working on this. jc3  
----- Forwarded by Jose Cerda III/OPD/EOP on 03/16/98  
01:01 PM -----

Patricia M. McMahon  
03/16/98 12:46:25 PM  
Record Type: Record

To: Walter L. Holton/ONDCP/EOP, Daniel Schecter/ONDCP/EOP, Kathleen D. Malliarakis/ONDCP/EOP, R J. Gregrich/ONDCP/EOP  
cc: See the distribution list at the bottom of this message  
Subject: Aids Council Meeting Press Conference

A group of people want to do a press conference in front of the White House tomorrow to ask for Donna Shalala's resignation, possibly to resign themselves from the Council, possibly to engage in civil disobedience that would lead to the arrest of some demonstrators.

There is also a consideration to ask for Director McCaffrey to resign. ( It would not be a long walk from the White House to our office) The belief is that the Director is standing in the way of Shalala lifting the ban. The group wants to put pressure on her to voice her support for federal funding for needle exchange programs/research and to not be "squeezed" by others (BRM).

"Bus loads" will be arriving in DC tomorrow as per the caller.

Message Copied

To:

---

Darlind J. Davis/ONDCP/EOP  
Janet L. Crist/ONDCP/EOP  
Ursula J. Sanville/ONDCP/EOP  
Hoover Adger Jr./ONDCP/EOP  
James R. McDonough/ONDCP/EOP  
Sammie C. Grizzle/ONDCP/EOP  
Tilman Dean/ONDCP/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-MAR-1998 18:33:26.00

SUBJECT: Re: briefing book for afl-cio

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

They want a Q&A on the FICA/workfare issue, with a short background piece, by cob Tuesday, so I was planning to do the obvious and run it by you. (You probably haven't read my email saying this yet.)

Elena Kagan

03/16/98 06:01:24 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP, Diana Fortuna/OPD/EOP

cc:

Subject: briefing book for afl-cio

could we figure out what kind of materials we should provide and when?  
thanks.

----- Forwarded by Elena Kagan/OPD/EOP on 03/16/98 06:02  
PM -----

Karen Tramontano

03/16/98 11:27:36 AM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Diana Fortuna/OPD/EOP,  
Michael Cohen/OPD/EOP

cc:

Subject: briefing book for afl-cio

you probably already heard from staff secretary about the briefing book -- we are going to use it both for the potus and vp --- the only hot issue that i know will be raised will be the fica/futa --- you may know of others.

also, the vpotus may be doing a round table on friday (late) in los angels with the executive board of the california teachers --- they want to talk about charter schools and california technology partnership -- any thoughts/ideas would be helpful



RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jeffrey M. Smith ( CN=Jeffrey M. Smith/OU=OSTP/O=EOP [ OSTP ] )

CREATION DATE/TIME:16-MAR-1998 17:45:30.00

SUBJECT: Meeting with S&T lobbyists re tobacco legislation

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: Jim Kohlenberger ( CN=Jim Kohlenberger/O=OVP @ OVP [ UNKNOWN ] )  
READ:UNKNOWN

TEXT:

We're gathering a number of the key S&T lobbyists (about 85) together for a Tuesday afternoon (3/17) meeting in Room 450 OEOB to enlist their help on the FY99 R&D budget. See attached draft of an event memo pasted below.

In discussing this with Jim Kohlenberger, we thought this might be an ideal opportunity for one of you to provide this national group the benefit of the WH thinking/strategy on the tobacco legislation...it would certainly help us in directing their efforts to swing in behind the cause...

We've built the crowd... can OPD lend us a hand in getting them headed in the right direction? If you can't, we'd be grateful for your suggestions of who'd you recommend as best speaker on tobacco legislation...

Many thanks for your consideration.

Jeff Smith 6-6047

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FY99 Budget Discussion with S&T Leaders

Date: Tuesday, March 17th  
Location: Room 450 OEOB  
Time: 1:00 - 2:30 p.m.  
Contact: OSTP 456-6047

I. PURPOSE

This event will highlight the Administration's determination to ensure Congressional passage of the Administration's FY99 R&D budget. Science is at the top of the agenda for FY99 with the largest proposed funding increases in history for civilian R&D programs. The Administration looks forward to working with legislators from both sides of the aisle to strengthen Congressional support for science and engineering research. Additionally, the Administration urges support of a balanced research portfolio across all agencies and science disciplines.

## II. BACKGROUND

This is an effort to reach out to leaders in the U.S. scientific community urging their across-the-board support for the S&T budget proposal currently working its way through the Congressional appropriations process. Senior Administration S&T officials will urge a give-and-take discussion in this forum with S&T community leaders of how, together, we might best work, beyond political and parochial concerns, to advance support for these proposed S&T investments.

Attending will be leaders from the Science Coalition -- an alliance of more than 400 organizations, institutions, and individuals -- dedicated to sustaining public support for basic science. Also included are government and public affairs directors of various scientific and academic societies, as well as leaders of energy and environmental groups.

## III. PARTICIPANTS

Dr. Jack Gibbons, Assistant to the President for Science & Technology  
 Dr. Neal Lane, Director of the National Science Foundation  
 Dr. Harold Varmus, Director of the National Institutes of Health  
 T.J. Glauthier (invited), Office of Management and Budget  
 EPA/DOE representatives -- TBD  
 Jerry Mande, Office of Science and Technology Policy  
 Senior Official (Peter Jacoby invited) -- White House Legislative Affairs

## IV. PRESS

Closed to press.

## V. SEQUENCE OF EVENTS

EPA/DOE representatives to be worked into a revised schedule...

1:00 p.m. (Letter of appreciation from Science Coalition to Jack Gibbons may be presented.)

1:05 - 1:12 Jack Gibbons, who introduces each speaker and acts as program moderator, makes welcoming and introductory remarks, and then introduces Dr. Neal Lane.

1:12 - 1:20 Dr. Lane makes brief remarks.

1:20 - 1:28 Dr. Harold Varmus makes brief remarks.

1:28 - 1:32 Specific questions for Dr. Harold Varmus, who then departs to testify on the Hill.

1:35 - 1:40 T.J. Glauthier makes brief remarks.

1:40 - 1:50 Bruce Reed/Elena Kagan/Chris Jennings ? (it would be a great help if any one of these people could lend a hand) Or, if they're not available, perhaps Jerry Mande (OSTP/DPC) or Peter Jacoby (WH Leg. Affairs) speak briefly on tobacco legislation.

1:50-2:00 Skip Stiles, legislative director (minority) for House

Science Committee, speaks  
for the FY99 S&T budget.

briefly on Congressional outlook

2:00- 2:25        Q&A and discussion.

2:25 -2:30        Jack Gibbons wraps up.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Leanne A. Shimabukuro ( CN=Leanne A. Shimabukuro/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:16-MAR-1998 17:18:37.00

SUBJECT: school safety event

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

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

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

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

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

TEXT:

This is a rough proposal for a Thursday school safety event. Right now it looks like we could have a four-part announcement. Please let me or Jose' know if you have any suggestions or questions.

Thanks,  
Leanne

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

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

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D91]MAIL47294647P.026 to ASCII,  
The following is a HEX DUMP:

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**Proposed School Safety Event  
March 19, 1998**

Automated Records Management System  
Hex-Dump Conversion

**Overview of Event:** The event will be an opportunity for the President to announce two studies on violence and crime in schools, and two actions the Administration is taking to help parents and communities create safer schools. The studies -- which will be timed for release shortly before the event -- will provide national estimates on the incidence of violence in schools as well as trends in school violence as reported by students. To help respond to the school crime problem, the President will release a preview for a new annual report the Education and Justice Departments are currently preparing to help parents and schools assess and address their school safety and violence issues, and \$12 million in new COPS funding to reduce violence in schools.

I. **Announcements.**

- A. **School violence and discipline study.** Earlier that morning, the National Center on Education Statistics will release a national survey on violence and discipline problems in schools for the 1996-97 school year. Key findings include:
- 1) 57% of public schools experienced at least one crime incident that was reported to law enforcement;
  - 2) There were an estimated 190,000 physical attacks or fights without a weapon; 11,000 physical attacks or fights in which a weapon was used; and 7,000 robberies; and 4,000 rapes or other forms of sexual battery;
  - 3) 43% of schools reported no incidents of crime; 37% reported 1 to 5 crimes; and 20% reported 6 crimes or more.
- B. **School Crime Victimization Survey.** This report was sponsored jointly by the Bureau of Justice Statistics and the National Center for Education Statistics for 1989 and 1995. The survey will include data from about 10,000 youth, ages 12-19 on weapons possession, disciplinary actions and student victimizations. The report will show that while the crime rate in schools has essentially stayed flat, the nature of crime has changed and gangs have more than doubled.
- C. **Joint Report to President by Secretary Riley and Attorney General Reno.** In response to President Clinton's 12-6-97 radio address on school violence, the Secretary and Attorney General will present to him the framework of a new annual report on school violence indicators currently being developed for release by the coming school year. The full report will include a statistical analysis of school crime (e.g., drugs, weapons and alcohol possession, gangs, and student and teacher safety); model safe and drug-free schools; strategies to create safe schools and an overview of state and local school crime data.
- D. **COPS funding for school violence.** The President will announce the availability of new Justice Department funding to combat school violence. On the date of the event, the COPS Office make applications available for \$12

million in FY 98 grant funds to help improve school safety and reduce crime on or near elementary and secondary school grounds. The funding is the result of Senator Robb's efforts.

II. **Event Logistics**

Automated Records Management System  
Hex-Dump Conversion

A. **Participants**

Event Participants

Vice President (?)

Attorney General Reno

Deputy Education Secretary Mike Smith

Members of Congress, specifically Senator Robb

[Do we need other participants such as students, and teachers given that this is in the Oval Office?]

B. **Press Plan**

Pool Press.

C. **Sequence of Events**

- The President will enter the Oval Office accompanied by the Attorney General, and Education Deputy Secretary Smith.
- Deputy Secretary Smith makes remarks and introduces the Attorney General.
- The Attorney General makes remarks and introduces the President.
- The President will make remarks and depart.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-MAR-1998 10:44:32.00

SUBJECT: REDRAFT SAP on HR 2294 - Federal Courts Improvement Act

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

READ:UNKNOWN

TO: Steven D. Aitken ( CN=Steven D. Aitken/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: William P. Marshall ( CN=William P. Marshall/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Attached is a redraft of the HR 2294 SAP. Please note that the text has changed from the SAP which was previously circulated on 3/13/98. Justice, Labor, OPM, and Treasury have signed-off on the SAP.

H.R. 2294 is scheduled for House floor action this week. Therefore please provide any comments or changes ASAP.

DRAFT -- NOT FOR RELEASE

March 16, 1998

(House)

H.R. 2294 - Federal Courts Improvement Act

(Coble (R) North Carolina)

The Administration supports several provision of H.R. 2294 that would improve the Administration of Federal courts. The Administration, however, opposes House passage of the bill because it would:

Require an annual transfer of funds from the Justice and Treasury Asset Forfeiture Funds to the Judiciary to cover certain costs including the costs of adjudicating civil and criminal forfeiture cases and providing counsel to indigent defendants in such cases. This provision could appear to represent a conflict of interest for the Judiciary in that it may obtain a pecuniary benefit from decisions forfeiting assets or funds to the United States. In addition, asset forfeiture funds already are used to pay lien holders, victims of crime committed by the defendant, or others with superior rights. (Section 101)

Require the transfer of employer contributions from the Civil Service Retirement and Disability (CSR) Fund to a judicial branch courts operation fund when judges elect to transfer service credit from the CSR system to the judicial officers retirement system. This is an inappropriate transfer of funds, since they represent assets used to

provide survivorship protection to judges while they were covered by the CSRD Fund retirement systems. (Section 102)

Vest magistrate judges with criminal contempt authority in certain instances. Giving contempt authority to non-Article III judges raises constitutional concerns. (Section 202)

Extend to jurors coverage under the Federal Employees' Compensation Act while going to and from jury duty. This provision undercuts the longstanding general principle that workers' compensation coverage is not provided for travel to and from work. (Section 407)

The Administration also has concerns regarding provisions of H.R. 2294 which would provide 90-day annual leave carryover to "designated executives."

Pay-As-You-Go Scoring

H.R. 2294 is subject to the "pay-as-you-go" requirement (PAYGO) of the Omnibus Budget Reconciliation Act of 1990. The Administration's PAYGO estimate for this bill is under development, but the preliminary analysis of the bill suggests that H.R. 2294 may result in substantial increases in direct spending. Any bill that would increase mandatory spending or result in a net revenue loss could contribute to a sequester of mandatory programs as called for in the Budget Enforcement Act. As a result, if the bill were enacted, any deficit effects could contribute to a sequester of mandatory spending.

\* \* \* \* \*

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Edward W. Correia ( CN=Edward W. Correia/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:16-MAR-1998 15:02:54.00

SUBJECT: Higher Education Self-Assessment Guide

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

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

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

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

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

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

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

TEXT:

We have tentatively identified a group of persons to review the self-assessment guide on admissions before it is made public. The group includes: the American Council on Education, American Association of University Professors, LCCR (Wade Henderson and Nancy Zirkin), the NAACP Legal Defense Fund, MAALDEF, National Women's Law Center, National Association of College and University Attorneys, and, at the request of DOJ, a group of seven deans indentified by the Department of Justice who are meeting soon with the AG.

We will stress that the document should not be made public, that we are making no commitments on release dates, and that comments must be back to us within two weeks. Also, no individual or university involved in litigation will be asked to comment. We'll evaluate what comes in and -- we hope -- finalize the document for release. (Additional DOJ review may be necessary if revisions are substantive.) If you have concerns about any of our potential reviewers, have ideas for other reviewers, or have comments on the process, please let me know. (The release will have to be done after considering the possible impact on the higher education reauthorization bill. We can deal with that issue after the comments are in.)

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sarah A. Bianchi ( CN=Sarah A. Bianchi/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:16-MAR-1998 19:45:11.00

SUBJECT: q&as -- Medicare Buy-In

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:

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

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

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**Q: WHAT DO THE LATEST CBO ESTIMATES ABOUT THE MEDICARE BUY IN PROPOSAL MEAN?**

**A:** CBO recently released extremely positive estimates on the proposal for the Medicare buy-in. In fact, CBO assumes that this policy will help more people, and cost less than the Administration's initial estimates, and assumes that it will not burden Medicare Trust Fund. The CBO estimates that this proposal would provide coverage for 410,000 individuals, 33 percent higher than the Administration's estimates. Moreover, they project that Medicare beneficiaries would have to pay less in premiums after they turn 65 to cover the costs of the buy-in.

These estimates validate that the Medicare buy-in proposal is a carefully targeted policy that will help give an extremely vulnerable group of Americans access to health insurance without burdening the Medicare Trust Fund.

**Q: BUT HOW CAN YOU SAY THAT THIS PROPOSAL WILL NOT BURDEN THE MEDICARE TRUST FUND WHEN MANY ARE SAYING THAT THIS POLICY WILL COST \$1.4 BILLION?**

**A:** There is a temporary cost to the Medicare program from this policy that is paid for by the President's proposal through a series of anti-fraud and abuse proposals that offset the cost of this policy.

**Background:**

**Why this policy has a temporary cost but would not impose a burden on the Medicare Trust Fund.** As we have always said, there is a relatively modest cost to this proposal because participants would pay the premium in two parts: most up front (the base premium) and a part after they turn 65 years old (the risk portion of the premium that accounts for the fact that less-than-healthier beneficiaries may be likely to opt for this policy). This will help these older Americans to buy into Medicare with affordable premiums. Medicare would in effect "loan" participants the second part of the premium until they reach 65 when they would make a small payment as an add on their regular Medicare Part B premium. That "loan" accounts for most of Medicare costs of this policy. Since the additional costs would be repaid with interest, this policy would not burden the Medicare program over the long run.]

**Q: BUT CBO DOES NOT THINK THAT THE ADMINISTRATION'S ANTI-FRAUD SAVINGS WILL PAY THE FULL TEMPORARY COSTS TO THIS PROGRAM RIGHT?**

**A:** There is a slight difference -- \$300 million over five years -- that CBO assumes would not be fully offset by the President anti-fraud proposals. However, there are always slight variations in how CBO and the Administration would score these types of proposals. \$300 million over five years is an extremely small variation for the Medicare program that spends nearly double that amount every day.

**Q: WHAT IS YOUR RESPONSE RECENT REPORTS THAT SENATOR BREAUX IS ASKING THE CONGRESS TO WAIT FOR THE MEDICARE COMMISSION BEFORE CONSIDERING THE PRESIDENT'S PROPOSAL TO OFFER MEDICARE FOR AMERICANS AGES 55 TO 65?**

**A:** These reports did not fully reflect Senator Breaux's views on this issue. Senator Breaux has accurately stated that the Medicare Commission has been charged with the responsibility of looking at this issue as well as a wide range of other issues. But Senator Breaux is not saying that he would explicitly stand in the way of legislation that expands coverage options, such as the President's proposal.

**The President believes that this is a financially responsible and targeted policy that addresses a vulnerable population that the private insurance market has failed to serve. Americans ages 55 to 65 are one of the most difficult to insure populations: they have less access to and a greater risk of losing employer-based health insurance; and they are twice as likely to have health problems. The policies being unveiled today are paid for and responsible, and will help people with few affordable choices for health insurance.**

**While the work of the Medicare Commission will be extremely important, the President does not believe that the American public would sanction holding up a targeted, important proposal that would help hundreds of thousands of Americans with access to health insurance. The President is confident that as Congress examines the needs of this population and the proposal to address it, the necessary consensus to move this legislation forward will be achieved.**

**Q: ISN'T THIS EXACTLY THE WRONG TIME TO PROPOSE EXPANDING MEDICARE -- JUST WHEN THE COMMISSION IS GOING TO MAKE RECOMMENDATIONS ABOUT THE OVERALL FINANCING OF THE PROGRAM?**

**A:** The legislation being unveiled today is a targeted proposal that is paid for within the Medicare program and therefore does not add any new burdens to the program. We believe this is a worthy goal that is fully consistent with the charge of the Medicare Commission. **The Medicare Commission will be working to develop proposals for the overall financing of Medicare. The legislation being unveiled today will not conflict with the Commission's work in this area.**

**Q: ISN'T THIS POLICY JUST ANOTHER EXAMPLE OF A GOVERNMENT TAKE-OVER OF THE PRIVATE HEALTH INSURANCE SYSTEM?**

**A.** Absolutely not. This is a carefully targeted proposal that is designed to make sure that older Americans have access to health care coverage. Older Americans have less access to employer-based health insurance, are twice as likely to have health problems, and are at greater risk of losing coverage. Some have no insurance options, and others are left to buy into the individual insurance market which can be prohibitively expensive because of their poorer health. This helps this vulnerable population get access to health care coverage by:

**Enabling Americans Ages 62 to 65 Buy into the Medicare Program**, by paying a full premium.

**Providing Vulnerable Displaced Workers over 55 Access to Medicare** by offering those who have involuntarily lost their jobs and their health care coverage a similar Medicare buy-in option.

**Providing Americans Over 55 Whose Companies Reneged on Their Commitment to Provide Retiree Health Benefits A New Health Option**, by extending (COBRA) coverage until age 65.

**Q. ISN'T THIS POLICY A MEDICARE ENTITLEMENT EXPANSION, AT A TIME WHEN MEDICARE CAN LEAST AFFORD IT?**

**A.** Absolutely not. Both the Congressional Budget Office and the Administration's estimates have confirmed that since participants would have to pay a full premium, there would be no substantial impact on Medicare.

We have made strengthening and preserving the Medicare Trust Fund a top priority. In 1993, the President enacted a budget -- without the vote of a single Republican -- that

extended the life of the Trust Fund through 2002. The Balanced Budget the President signed into law last summer extended the life of the Trust Fund at least a decade. This new policy is a carefully targeted policy that will in no way compromise our commitment to strengthen the Medicare program.

**Q. ISN'T THE COBRA POLICY YET ANOTHER EMPLOYER MANDATE THAT WILL DISCOURAGE EMPLOYERS FROM OFFERING HEALTH COVERAGE TO BEGIN WITH?**

A. The COBRA policy applies only to a small subset of firms who have dropped retiree health benefits after they have promised to provide them. Also, it requires retirees to pay a premium without an employer contribution, so the costs to the employer would be minimal. As a consequence, there is no reason to believe that employers will make a decision to drop health coverage simply because this policy exists.

**Q. THERE IS NO MENTION OF THE PREMIUMS THAT DISPLACED WORKERS WOULD PAY TO BUY INTO MEDICARE. WHAT IS THAT PREMIUM?**

A. Displaced workers would pay one premium, that includes an add-on for any extra costs, up front. This amount is still being estimated, but will be about \$400 per month. Americans choosing this option would pay the entire premium without any Medicare "loan," in order to ensure that Medicare does not pay excessive up-front costs and participants are not burdened by expensive re-payments after they turn age 65.



MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED  
MIKE COHEN  
SECRETARY RILEY

SUBJECT: California Proposition 227 (Unz Initiative) to end Bilingual Education

On June 2, California voters will consider Proposition 227, English for the Children, an initiative which proposes to eliminate all bilingual education and require that all students be taught in English, regardless of their primary language or level of English comprehension. This is California's third potentially divisive race-related initiative in four years, following on the heels of Proposition 187 which barred public benefits for illegal immigrants, and Proposition 209 which ended affirmative action.

Latino activists are strongly opposed to Unz, and are looking to the White House for strong and visible support of their efforts to defeat Unz. Polls consistently show that the initiative is popular, even among Latino voters, and is likely to pass. While many expect Latino support to decline considerably as voters become more familiar with the details of the proposal, it is clear that the initiative taps frustration with highly publicized problems in some bilingual education programs as well as widespread dissatisfaction over the performance of the public schools, particularly with regard to Hispanic students.

Despite legitimate concerns over the ineffectiveness of bilingual education as it is currently implemented in many places in California and throughout the country, your advisors strongly believe that the Unz initiative is bad education policy and will be harmful to students who need help the most. Despite some tricky politics, we believe that it is both good policy and good politics to oppose Unz, coupled with proposals to "mend, not end" bilingual education. This memo provides the background, rationale, and specific recommendations for this approach.

**I. The English for the Children Initiative and Bilingual Education in California**

**A. Overview of English for the Children (Unz) Initiative**

This initiative, authored and backed by Silicon Valley millionaire Ron Unz, is designed to end all bilingual education programs in California. More specifically, it would:

- Require that all public school instruction be conducted in English.
- Permit this requirement to be waived only if parents or guardians can show that the child already knows English, has special needs, or would learn English faster through an alternative instructional technique.

- Provide initial placement for Limited English Proficient (LEP) students in "sheltered English immersion" programs for one year. Instruction in these programs would be conducted in English, with some accommodations in the curriculum to take into account the limited English language skills of the students.
- Appropriate \$50 million per year over 10 years to fund adult education programs that teach English, to adults who pledge to provide English language tutoring to LEP students.
- Makes teachers, administrators and school board members personally liable for failure to implement the provisions of the initiative, and subject to suit by parents or guardians.

Unz and other backers of this initiative make clear that they regard the existing system of bilingual education in the state as a complete failure. They argue that Latino and other immigrant parents want their children to learn English more rapidly than occurs at present. They charge that because bilingual education relies so heavily on use of the students' native language and only slowly introduces English, the approach delays or prevents, rather than promotes, the acquisition of English. Further, they point out that though California's bilingual education law expired a decade ago, the legislature has been unable to enact legislation to reform a broken program. This initiative, they argue, will break the legislative impasse and dramatically change bilingual education policy for the better.

Opponents criticize the Unz Initiative on a number of counts. Critics argue that the initiative is harmful to children, because it relies on a single, unproven approach that provides an unrealistic time period in which to learn English, and will result in grouping students in the same classes regardless of language, age or grade level. They argue that the one-size-fits-all approach eliminates a parent's right to choose the best approach for their child (and point out that the waiver requirements in the Unz initiative are extremely burdensome and unlikely to be used effectively, particularly by immigrant parents). They point out that the Unz initiative provides no accountability, because it lacks any requirements for assessing students' academic progress. They also point out that the Unz Initiative undermines local control and the ability of local school boards to determine important education policies, and wrongly subjects educators to lawsuits.

## **B. The Context of Bilingual Education in California**

**Demographics.** There are approximately 1.3 million Limited English Proficient (LEP) students in California, approximately xx% of California's K-12 students.. This number has nearly doubled in less than a decade, and represents some 43% of the national total. Seventy nine percent of California's LEP students are native Spanish speakers. Hispanics have a 50% dropout rate, and by most indicators their academic performance lags behind most other population groups in the state.

**Educational Services.** LEP students receive a wide variety of types of services intended to help them learn English and academic subjects. In 1997, only approximately 30% receive what is conventionally considered bilingual education--programs which make significant use of the student's primary language to teach academics while phasing in greater amounts of English

language instruction. Approximately 16% are not receiving any language instruction services at all. The remainder--more than half-- participate in specially designed instructional programs that help students learn English through a combination of approaches such as direct instruction in grammar, vocabulary and communications, and instruction in academic subjects that is designed to be accessible to LEP students. The California Department of Education estimates that there is a shortage of 21,000 qualified bilingual education teachers.

While the rationale for the Unz Initiative is the perceived failure of bilingual education in California, less than a third of the eligible students actually participate in it. And the Unz initiative if enacted would eliminate virtually all of the programs now providing services to LEP students.

Significantly, none of the Unz opponents we spoke with in the education or advocacy communities were prepared to argue that bilingual education, or any other form of services to LEP students in California, is currently effective on a large scale basis. While program evaluations show that there are promising efforts using a number of different approaches, in the main there is a strong sense that shortages of qualified teachers and poor implementation has limited the effectiveness of many existing programs. In addition, most observers agree that the overall poor academic performance and high dropout rate of Hispanic students reflects serious weaknesses in schools that extend well beyond language services for LEP students.

**California Legal Framework.** The legal framework for providing services to LEP students in California is particularly murky. California's Bilingual Education Act sunseted in 1987, though under California law the overall purposes of the program remain in effect, even while the more specific design, programatic and administrative features do not. The State Board of Education regulations implementing the act have remained in effect, and provided the state legal framework for bilingual education. Under this framework, school districts were required to help students become fluent in English and competent in other academic subjects, and were given a significant amount of flexibility in determining how to achieve these goals. Neither bilingual education nor any other specific approach to teaching LEP students was required.

There have been a number of unsuccessful attempts in the past decade to enact new legislation, but bilingual education reformers and advocates have been unable to agree on an approach. There has been a fresh attempt over the past month to craft compromise legislation, partly to take the steam out of Unz and partly to give Unz opponents something to be for. However, it is not clear that longstanding disagreements can be overcome this time. Nor is it considered likely that Gov. Wilson will sign compromise legislation.

Last week the California State Board of Education took the first step toward eliminating the state bilingual education regulations entirely. This process should be completed shortly before the vote on Unz. While neither the motivations behind this step, nor its full implications, are clear, it appears that the overall impact will be to eliminate any state law or regulations regarding services to LEP students, and to give local school districts even greater flexibility in

the future than in the past, subject to applicable federal requirements.

**Federal Legal Framework.** Federal requirements originate in the Due Process and Equal Protection Clauses of the Fourteenth Amendment, and provisions of the Equal Educational Opportunities Act (19XX) which require educational agencies to take appropriate action to overcome language barriers that impede equal participation by students in instructional programs.

As interpreted by the courts, these provisions do not require any specific form of services, such as Bilingual Education or English as a Second Language programs. Rather, they require the provision of supplemental language instruction that is based on sound educational theory, is adequately resourced and implemented, and is evaluated and modified as necessary.

These requirements afford local school districts in California considerable discretion to fashion programs and services according to their specific needs and resources. Rather than requiring a specific approach, they require that whatever approach is used be implemented effectively. If Unz is enacted, many expect that it will be challenged as a violation of federal law. However, prior to enactment, there is no basis to support that view. However, if services mandated by Unz are not implemented effectively, there is likely to be a strong basis for a legal challenge.

The federal Bilingual Education program (Title VII of the Elementary and Secondary Education Act) is an additional source of federal direction for participating local school districts. However, this competitive grant program also provides local school districts with considerable discretion in the type of services provided to students.

## II. Political Context

The Unz initiative is the clearly the most serious threat to bilingual education, but it is not likely to be the last such threat. Earlier this year Speaker Gingrich proposed eliminating the bilingual education, and conservatives from English-only advocates to more serious scholars troubled by the lack of clear evidence of effectiveness (e.g., Diane Ravitch) have also called for the elimination of bilingual education. Especially if Unz passes, we are likely to see energized opposition to the federal program, and escalated opposition in other states and local communities.

**The Unz initiative presents a political dilemma in California.** If we oppose it, we risk alienating a majority of California anglo voters. If we fail to oppose it, we risk alienating a vocal and increasingly influential group of Latino leaders, and possibly Latino voters.

Current polls show that a majority of all voters, and especially a majority of California Anglo voters, support Unz. For Anglos, bilingual may become the hot button issue that immigrant services and affirmative action were. Anglos are angry about spending money on

biligual education and want it stopped

In contrast, Latino voters are split on the issue of bilingual education. Latino activists and electeds oppose Unz. To some of the Latino leaders, this is a limitus issue, like Propositions 187 and 209. It is being viewed as a cultural attack and as racially motivated. Private conversations and press accounts suggest that Latino leaders are looking to the White House to become actively involved in the opposition to Unz, and are beginning to become fearful that we may sit on the sidelines when California consideres eliminating educational opportunities for Latino children, until it is too late, .

Polls and anecdotal evidence show that show that Latino "voters" currently support Unz. Latino citizens believe the education system is failing to lift their children up to the standards of anglo children. They are frustrated and want a better choice for their children's education, and this frustration is being translated into support for a proposition that purports to help their children learn English rapidly. However, most Latino leaders and activists believe that as Latino voters become better education about the particulars of the Unz initiative, Latino support will decline considerably.

**The political dilemma can be resolved with a "Mend it / Don't End it" response.** We can strike a middle ground between Latino leaders, possibly Latino voters, and anglos by admitting that bilingual education needs mending, but Unz is not the way to do it. More specifically, we can:

- Oppose Unz on the merits because it is too extreme;
- Remind voters what we are for, including our overall approach to strengthen public education and, within that, our Hispanic initiative aimed largely at increase academic achievement and high school completion among Hispanics;
- Propose to "mend" the federal bilingual education program through steps that will strengthen local control (and lift the cap on English programs); create expectations for learning English within a fixed period of time; strengthen accountability for students and programs alike by testing for English proficiency; and promoting our efforts to strengthen program quality by increased investments in teacher training.

**The timing of making a decision public is important.**

**Legislative Compromise:** The Assembly may very well accept Amendments to the Senate bill that produces a compromise piece of legislation on biligual education for the Governor's signature. Assembly Speaker Antonio Villaraigosa does not believe the Governor will sign bilingual education legislation. Regardless of the legislation's ultimate success, the President should not take a possition that would create partisan motivations for the Governor to gratuitously oppose legislation. The legislature is hoping to complete a bill by mid to late March.

**1998 Gubernatorial Candidates:** Before the President takes a public position, we must consult with the gubernatorial candidates.

**Setting a polite political tone:** One advantage of taking a position in the next month is that we have an opportunity to take an offensive position and set a polite tone rather than get involved in an inflammatory one. The closer to the election, the more likely this debate will devolve into a mud slinging race debate. If our objective is to support effective education for the 21st Century, we could make this an opportunity for fitting bilingual education into that kind of framework.

(More to come--(1) indicate key Unz opponents and supporters; (2) key Congressional considerations

### III. Specific Recommendations

#### 1. Oppose Unz within next 4 weeks

message--mend, don't end

messenger--POTUS, VPOUTS, Riley (we either need to make a recommendation, or lay out pro's and con's???)

#### 2. Specific recommendations for changing federal program

- strengthen local control by lifting cap on English programs
- create expectation (but not hard deadline) for learning english
- accountability for kids and programs--test kids for English proficiency within time period and require corrective actions for kids not measuring up; require corrective actions and possible loss of funds for programs not measuring up (unless this is already in current law)
- continued efforts to pay attention to quality regardless of the type of program--rhetoric about standards, highlight our budget increase in teacher training within bilingual ed program.



March 17, 1998

DRAFT MEMORANDUM FOR THE DPC/ NEC

FROM: DPC/NEC STAFF  
SUBJECT: Equal Pay Initiative

This memorandum outlines some options for a possible announcement on equal pay on April 3rd. Many organizations around the country hold events on April 3rd, which is "Equal Pay Day," the day designated as the date on which women's earnings, added to their previous year's earnings, are said to equal what men earn in one calendar year.

There are numerous studies attempting to determine the degree of wage differences between men and women. A recent brief review of existing studies in the area by the Council of Economic Advisors concludes that while wage differentials have narrowed steadily since the late 1970s, there is still a significant wage differential, even after controlling for education, experience, and occupation. The raw differential in terms of female and male wage ratios is 72.4. Taking into account education and experience, the differential becomes 80.5. The wage differential further narrows to 88.2, controlling for occupation, industry, and union status. A more popular figure, cited for instance by the Department of Labor, states women earn on average only 75 cents for each dollar a man earns.

The following summarizes existing legislation on equal pay, and describes policy options in four areas (1) data collection; (2) enforcement; (3) technical assistance; and (4) executive actions. The memorandum then describes four options for endorsing or modifying existing bills or endorsing legislative principles.

**I. Existing Legislation**

There are two main bills regarding fair pay that have been introduced, one by Senator Daschle (D-SD) and one by Senator Harkin (D-IA).

**A. Paycheck Fairness Act - Daschle S.71**

Enhanced Enforcement. Daschle's bill would amend the Equal Pay Act (EPA) to allow for compensatory and punitive damages. Currently, the EPA only allows for liquidated damages and back pay awards. Liquidated damages typically are awarded in an amount equal to back

pay. Typical recoveries are double back-pay awards.

**An individual can file suit for wage discrimination under either Title VII or the Equal Pay Act (EPA). Title VII allows for compensatory and punitive damages, in addition to back pay, as a result of the Civil Rights Act of 1991. These damages are, however, capped. Compensatory and punitive damages under Title VII for wage discrimination are limited to no more than between \$50,000 and \$300,000, depending on the size of the employer -- not the severity of the offense (e.g., for firms with between 15 and 100 employees, combined damages are capped at \$50,000). Victims of racial or ethnic discrimination in employment can seek unlimited damages under a separate statute, leaving victims of discrimination based on sex, religion or disability limited in the relief they can receive.**

**The Daschle bill adds unlimited compensatory and punitive damages to the Equal Pay Act. A number of advocates believe that increasing the damages available under the EPA would encourage the private bar to bring more suits under the statute, encourage employers to devote more attention to their pay practices, and encourage victims to come forward.**

**Adding unrestricted damages to equal pay cases would not necessarily lead to a huge proliferation of frivolous actions or excessive awards. An examination of Title VII's section 1981, the statute that allows for unlimited damages in cases of racial or ethnic discrimination, found that between 1980 and 1990 plaintiffs won 121 cases -- eleven per year. There were no compensatory and punitive damages in 52 of the cases; in 42, damages were less than \$50,000. Total damages exceeded \$200,000 in only two cases during the eleven-year period. This study was limited to reported decisions, and did not include cases settled before trial.**

Nonretaliation Provision. The bill includes a nonretaliation provision that amends the EPA to prohibit employers from penalizing employees for sharing information about their salaries with coworkers.

Data Collection. Daschle's bill also provides for the collection of pay information by the EEOC. Daschle's bill is somewhat vague on exactly how the wage data would be collected. It does not specify that the data needs to be collected on the EEO-1 form, which is the form used by the EEOC to collect employment data.

**Daschle's bill did not perform a cost analysis for the collection of this data, but merely requests that the EEOC appropriations be brought up to the level requested by the President in FY 1997 by adding \$36 million to the budget. (The President's FY 1999 budget requests \$279 million for the EEOC -- \$37 million or 15 percent more than the enacted 1998 budget. More than one-third of the proposed increase, \$13 million, goes to expansion of the agency's ADR program.)**

In addition, the Daschle bill provides for training, research, education, and outreach. Finally, the bill establishes "The National Award for Pay Equity in the Workplace," to be administered by the Women's Bureau of the Department of Labor, to recognize and promote the achievements of employers that have made strides to eliminate pay disparities.

## **B. Fair Pay Act - Harkin S.232**

Comparable Worth. The principal provision in Harkin's bill is for equal pay for equivalent jobs. The Fair Pay Act outlaws discrimination in wages paid to employees within a workplace in equivalent jobs solely on the basis of sex, race, or national origin. However, wage differences on the basis of seniority, a merit system, or an quality/quantity system would not be affected.

Harkin's bill also contains a non-retaliation provision, a provision to permit the awarding of expert fees, and a section that provides for the collection of wage information by the EEOC. The bill also provides for research, education, and technical assistance.

## **II. Relevant Policy Issues**

The following describes policy options in four areas: data collection; enforcement; technical assistance, and actions regarding the federal workforce.

### **A. Data**

Data collection could improve pay equity in two ways. The first is by providing more information to enhance enforcement of anti-discrimination laws; the second is by increasing public awareness of pay inequities. Development of better data to improve enforcement could be accomplished with a directive to the agencies to determine how best to update the EEO-1 form in order to better serve the EEOC; public awareness of pay inequities could be made with an annual report on the pay gap by sex produced by the DOL using the (existing) *Current Population Survey*.

#### **1. Directive to the Agencies**

The EEOC currently collects annual data regarding the demographic breakdown of the workforces of private employers with 100 or more employees and of federal contractors with 50 or more employees on the EEO-1 form. The EEOC does not currently collect salary data. The EEO-1 form, however, has remained virtually unchanged for the past 30 years. During that time, the

occupation and racial categories have become outdated; they have not kept pace with the new information economy.

At the same time, the EEOC believes that collecting wage data on the EEO-1 form would greatly improve their ability to target and prioritize discrimination cases. It also would assist the Department of Labor in targeting its enforcement efforts and monitoring affirmative action programs. However, collecting wage data through the EEO-1 form will be very controversial -- any attempts to add wage data to the form will draw significant fire from the Republicans and the business community.

In order to give complete consideration to competing arguments regarding changing the EEO-1 form or creating a supplement to the form, the best method would be to issue a directive to the EEOC, the Department of Labor, and the Department of Justice (in consultation with the Department of Commerce, Treasury, and OMB) to report back in 6 months on ways to improve the form to increase enforcement of our anti-discrimination laws. The agencies should be directed to streamline the data collection process and to pay particular attention to minimizing burdens on business.

*Pros:* The EEOC, the Dept. of Labor (OFCCP), and organized labor believe that wage data is critical to improving the enforcement ability of the EEOC and OFCCP. And, they are extremely eager for the administration to collect this data. Unfortunately, if the EEO-1 form were amended in its current form to include wage data, it would increase compliance costs by several hundred-fold. Other options, such as creating a supplement to the form, may mitigate some of these costs. At the same time, the form is quite out-of-date which further hinders enforcement.

Thus, we need a thorough and creative study (and policy process) in order to consider seriously changing the form, and to weigh the costs and benefits of revising the occupational and racial categories and collecting wage data. Issuing the directive will give us time to study the issue thoroughly while re-assuring interested parties that we understand their concerns.

*Cons:* Issuing a directive may be seen by organized labor and other groups as “weak” relative to stating that the administration will update the form and/or will collect wage data. Further, at the end of the 180-day period, we may be faced with a recommendation to change the form or collect wage data that comes at an unacceptably large public compliance burden. In other words, since the groups will expect us to include the wage data on the form (since we are announcing that we want to update the form on Equal Pay Day), we may be putting ourselves in a box that we will not be able to escape from.

Also, the business community -- concerned that we may make the form more difficult to comply with -- may object to us even considering changing the EEO-1 form (much less considering collecting the wage data).

**2. Annual Report Based on Bureau of Labor Statistics Data**

The President could also improve data collection by requiring DOL to issue an annual report based on (existing) wage data by the Bureau of Labor Statistics. This option would be less politically charged because it would not impose additional burdens on business. In addition, because attitudes and awareness are keys to reducing wage disparities, highlighting the issue every year would likely have a powerful effect on public consciousness and be an effective way to achieve increased gender pay equity. However, this option would not enhance enforcement efforts. This option would not involve significant costs.

**B. Enforcement**

Enforcement of anti-discrimination laws by the EEOC and OFCCP have traditionally played an important role in easing discrimination in our labor market. Therefore, a key component to our equal pay initiative is to improve enforcement by both agencies. In particular, we propose:

**1. Increase Funding for Enforcement**

a. Increase OFCCP Funding by \$5 million

DOL estimates that it would require approximately \$5 million to support additional training, travel, and staff to increase corporate management reviews. These corporate management reviews, also known as “glass ceiling” reviews, are different from other compliance reviews conducted by OFCCP in that they begin with an interview with the chief executive officer. These reviews also include a perusal of promotional and compensation policies related to mid- and upper-level management positions, efforts to recruit diverse pools of applicants for senior level positions, and the developmental opportunities that exist for individuals to become senior executives. Since 1994, OFCCP has conducted approximately 100 Corporate Management Reviews of Fortune 1000 companies. With an additional \$5 million, OFCCP could increase its FTEs by 80, and conduct approximately 190 corporate reviews per year.

b. Increase EEOC funding by \$500,000

EEOC estimates that it would cost \$500,000 to increase training for its staff for enforcement of wage discrimination under both Title VII and the Equal Pay Act.

**2. A Memorandum Of Understanding (MOU) between EEOC and DOL to Cross Train**

The EEOC and the Department of Labor could enter into an agreement to train each other's staff to be sensitive to potential violations of the statutes they enforce, including the Equal Pay Act. The agencies would refer information concerning potential violations of the agency's statutes to the applicable EEOC or Labor Department office for appropriate action.

**3. A MOU Between EEOC and DOL to Collect Damages**

OFCCP would be designated to serve as the EEOC's agent for purposes of collecting damages that are not otherwise collectible under OFCCP's authority under its executive order. OFCCP then could obtain full relief for intentional discrimination. This change would not require any legislative action. There are no costs anticipated for this option.

**4. A Presidential Directive to Emphasize Existing Obligations for Federal Contractors**

The President could issue a directive ordering all of the contracting agencies to abide by already existing Equal Employment Opportunity clauses which are contained in most government contracts. OFCCP enforces the anti-discrimination provisions in employment laws that pertain to federal contractors, which constitute 22 percent of the civilian workforce. As the result of the EEO clause in their contracts, federal contractors and subcontractors are required to refrain from discriminating and to take pro-active steps to ensure an equal opportunity workplace. This government contract obligation includes a self-audit component that often recognizes and corrects patterns of discrimination and eliminates unnecessary barriers to employment. The EEO clause is a powerful lever that, if taken more seriously by the contracting officers, would help prevent discrimination.

**C. Technical Assistance**

**1. Federal Contractor Best Practices**

**Currently, federal contractors must conduct self-audits as part of their**

**federal contract obligations. OFCCP has begun to publicize successful programs through its best practices honor roll. The agency plans to place these Best Practices suggestions on its web site.**

**2. SWAT Team at DOL to provide technical assistance**

DOL proposes \$2 million for a specialized technical assistance team to reach out to approximately 1000 companies. DOL's technical assistance would include analysis of hiring, promotion, compensation, and evaluation data to ensure fairness and consistency for women at all levels within the company. Recommendations for correcting problem areas could then be proposed.

**3. 10-Step Voluntary Self-Audit for Businesses and Employees**

The Department of Labor would develop and make available a 10-step package that would give companies guidelines to determine whether they offer equal pay, hiring, and promotional opportunities. The Department would also develop a similar checklist for employees. DOL would put these self-audits on the Internet. This would require no additional funding.

**4. Awards**

The Department of Labor has an Exemplary Voluntary Efforts (EVE) and Secretary's Opportunity 2000 Awards program that recognizes best corporate practices. This year's event will be held on September 17. This existing vehicle could be used to highlight the best practices in furthering pay equity. There is also an award proposed in the Daschle bill.

**D. Federal Government**

Another way in which the Federal government can provide for the recognition and promotion of fair pay practices by employers is to become a role model for other employers. The following four initiatives are designed to address discrimination within the Federal government:

**1. Guide to Recruitment and Retention of Women**

The Office of Personnel Management (OPM) is producing a new Guide on Recruitment and Retention of Women in the federal government that would contain information to make agency managers aware of career opportunities for women and to provide guidance on recruitment and career development for women. This could be prepared by April 3rd.

## 2. Outreach

OPM, in conjunction with other agencies, could expand outreach efforts, including working with professional groups, participating in women's conferences, and visiting college campuses so that talented women may be recruited for jobs in the Federal government.

## 3. Best Practices

OPM could work with the other Federal departments and agencies to develop best practices, from both the public and private sectors, for recruiting and retaining women.

## 4. Career Development Programs

OPM could explore extension of career development programs and activities, such as the Women's Executive Leadership Program and Federally Employed Women workshops, to increase employment of women in the federal workforce and to identify new initiatives that support the enhancement of career skills for women at all levels.

### III. Options

#### Option 1: Endorse Daschle

**Pros:** The bill addresses the legislative principles described in Option 4, below.

**Cons:** The bill may go further than we are willing to with regard to punitive and compensatory damages and with regard to adding wage data to the EEO-1 form (see the data discussion, above).

#### Option 2: Work with Daschle's Staff to Modify his Bill

Amend the provision to provide for the addition of capped compensatory and punitive damages, which would put the Equal Pay Act on par with the damages currently available for wage discrimination under Title VII, and issue a directive to *consider* changing the EEO-1 form (rather than determining that before a proper process has occurred). Announce an annual report on wage differentials.

**Pros:** Again, the bill addresses many of the proposed legislative principles. However, the President does not want to encourage unnecessary litigation and unlimited punitive damages that result in large legal settlements. Capping damages would both limit potential settlements and would make the Equal Pay Act consistent with Title VII. The annual report would be a

valuable informational guide to wage differentials. The advantages of issuing a directive to study the EEO-1 form are discussed in the Data section, above.

**Cons:** The Administration would be endorsing an enforcement provision stronger than what some businesses would likely prefer, and weaker than the bill originally sponsored by Senator Daschle.

**Option 3.** Support or Endorse Harkin

**Pros:** Economists agree that most of the (remaining) pay disparity between men and women results because traditionally female jobs pay less than traditionally male jobs. Therefore, that it will be difficult to achieve true pay equity without overhauling prevailing pay practices, such as through comparable worth.

**Cons:** While a policy akin to comparable worth may be required to achieve true pay equity, it has several drawbacks, including: a) interfering with the labor market's ability to set wages and strong opposition from business, b) possibility of causing women to lose jobs (since imposed pay equity would most likely be achieved by increasing female salaries rather than lowering male salaries), and c) no one really knows how wages are determined so it is difficult to implement.

**Option 4:** Endorse Legislative Principles

The President could simply endorse legislative themes for pay equity that should be in legislation, such as:

1. Providing for the recognition and promotion of fair pay practices by employers;
2. Providing for research, education and outreach to encourage fair pay practices and to eliminate pay disparities in the workplace;
3. Providing enhanced enforcement to deter violations of the Equal Pay Act and other laws;
4. Prohibiting retaliation against employees who disclose, discuss, or inquire about their wages or the wages of their co-workers.

**Pros:** We avoid committing to a particular policy before we have completed a thorough policy process while still emphasizing the administration's policy principles.

**Cons:** It does not respond specifically with solutions and would be criticized as ineffective and rhetorical.

**Recommendation:**

We recommend Option 2 as a specific action to reduce unequal pay with common sense legislation that improves enforcement, data collection, and technical assistance. In addition, we recommend the agencies sign the MOU's and develop guidelines for federal employers to improve federal coordination and practices.

Automated Records Management System  
Hex-Dump Conversion

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAR-1998 17:06:51.00

SUBJECT: Q&A due tonight for AFL-CIO briefing book on FICA and workfare

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

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

READ:UNKNOWN

TEXT:

Attached is a draft Q&A on FICA/workfare for you to review. According to Tramantano, the VP will get a question on this from McEntee. FYI, Bruce's guidance to me on this was, "Just make sure the VP understands that quite apart from the Treasury ruling, we're already on record as favoring a legislative exemption from FICA/FUTA for workfare positions, as part of our strategy to hold onto FLSA."

Exempting Workfare Positions from FICA Taxes

Question: Is it true that the Treasury Department and Internal Revenue Service are about to undermine our hard-won labor protections for welfare recipients by ruling that workfare payments are not subject to FICA and unemployment taxes?

Answer: As you know, the Administration has been steadfast in its position that worker protection laws, such as the Fair Labor Standards Act, should apply to workfare participants in the same way they apply to other workers. If a workfare participant counts as an "employee" under these laws, then she should get protection. No one doing real work should be paid a subminimum wage. We have repeatedly told the states that paying working welfare recipients the minimum wage and giving them other worker protections will promote, not undermine, the goals of welfare reform, because it will give them the ability to support their families and break the cycle of dependency.

The Treasury Department and the Internal Revenue Service have been exploring for months the question of how FICA and FUTA apply to welfare recipients in workfare programs, and they hope to have an answer to this question shortly.

In last year's legislative debate, we went on record in favor of a narrow legislative fix exempting workfare participants from these tax laws. We did so because we believe that removing the tax issues from the debate will make it more likely, not less likely, that we will prevail in our efforts to preserve worker protections, including the minimum wage, for those in workfare programs.

Background

Labor Protections: A key question for labor and for states is whether workfare participants have protections under labor laws such as the Fair Labor Standards Act, including payment of the minimum wage, worker safety laws, anti-discrimination laws, and collective bargaining rights. The

labor movement believes strongly that workfare participants should have all these protections, while Governors have resisted them to varying degrees because they make workfare programs more expensive and complex to manage. (Most Governors have conceded that it is fair to pay the minimum wage and offering safety protections.)

The Administration has largely agreed with organized labor on this issue. Department of Labor guidance issued last May clarified that most workfare participants are essentially employees and entitled to most protections. Last fall, Congressional Republicans vowed to reverse this guidance but failed to do so because of dissension in their caucus over how far to go.

Tax Issue: A related issue is whether workfare jobs should be subject to FICA and unemployment taxes. Governors have been vehement in opposition to these taxes, especially key Democratic Governors such as Carper and Chiles.

Within a week or so, the Treasury Department expects to issue a notice that clarifies that these jobs are exempt from taxes under current law. The notice says that workfare jobs are distinct from other jobs because the payment is determined more by state welfare policy and family need than the value of services performed. The unions are aware of this notice, and oppose it on the grounds that states might try to use its logic in court to argue against other labor protections. However, our position is that taking this action, whether legislatively or administratively, will remove the momentum from Congressional efforts to weaken labor protections, while not putting labor protections at any significant risk.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Audrey T. Haynes ( CN=Audrey T. Haynes/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:17-MAR-1998 08:35:32.00

SUBJECT: Editors

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

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

CC: Sondra L. Seba ( CN=Sondra L. Seba/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

TEXT:

Just to confirm Shalala is all set for speaking to the Editors on Tobacco. thanks

Also, there is a group of them, about 6, going to HHS to spend about 2 hours focusing on Tobacco and several other health issues. But they will all hear her about 4:10 on tobacco.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAR-1998 20:45:10.00

SUBJECT: INS reform

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:

Elena,

The letter/executive summary is almost finished. Peter wants to take it home to take a look at, so you should have the final version (reflecting input from NSC, OMB, Leg. and us) first thing in the morning.

Julie