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[04/27/1998 - 04/28/1998]

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CREATION DATE/TIME:27-APR-1998 11:50:25.00

SUBJECT: LRM #IMS307 - OMB Request for Views on HR1252 Judicial Reform Act of 1998

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TEXT:
You will not receive a paper copy of this LRM.

Total Pages: _____

LRM ID: IMS307
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Monday, April 27, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: James J. Jukes (for) Assistant Director for Legislative Reference
OMB CONTACT: Ingrid M. Schroeder
PHONE: (202)395-3883 FAX: (202)395-3109

SUBJECT: OMB Request for Views on HR1252 Judicial Reform Act of
1998 (as passed by the House on 4/23/98)

DEADLINE: Noon Thursday, April 30, 1998

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

COMMENTS: H.R. 1252 as passed by the House on 4/23/98 can be found on the internet in THOMAS.

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 Peter G. Jacoby
 Broderick Johnson
 Charles M. Brain

LRM ID: IMS307 SUBJECT: OMB Request for Views on HR1252 Judicial Reform Act of 1998 (as passed by the House on 4/23/98)

RESPONSE TO
 LEGISLATIVE REFERRAL
 MEMORANDUM

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

You may also respond by:

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

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

TO: Ingrid M. Schroeder Phone: 395-3883 Fax: 395-3109
 Office of Management and Budget
 Branch-Wide Line (to reach legislative assistant): 395-3454

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

- _____ Concur
- _____ No Objection
- _____ No Comment
- _____ See proposed edits on pages _____
- _____ Other: _____
- _____ FAX RETURN of _____ pages, attached to this response sheet

105th CONGRESS

2d Session

H. R. 1252

AN ACT

To modify the procedures of the Federal courts in certain matters, and for other purposes.

HR 1252 EH

105th CONGRESS

2d Session

H. R. 1252

AN ACT

To modify the procedures of the Federal courts in certain matters, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Judicial Reform Act of 1998'.

SEC. 2. 3-JUDGE COURT FOR ANTICIPATORY RELIEF.

(a) REQUIREMENT OF 3-JUDGE COURT- Any application for anticipatory relief against the enforcement, operation, or execution of a State law adopted by referendum shall not be granted by a United States district court or judge thereof upon the ground that the State law is repugnant to the Constitution, treaties, or laws of the United States unless the application for anticipatory relief is heard and determined by a court of 3 judges in accordance with section 2284 of title 28, United States Code. Any appeal of a determination on such application shall be to the Supreme Court. In any case to which this section applies, the additional judges who will serve on the 3-judge court shall be designated under section 2284(b) (1) of title 28, United States Code, as soon as practicable, and the court shall expedite the consideration of the application for anticipatory relief.

(b) DEFINITIONS- As used in this section--

(1) the term 'State' means each of the several States and the District of Columbia;

(2) the term 'State law' means the constitution of a State, or any statute, rule, regulation, or other measure of a State that has the force of law, and any amendment thereto;

(3) the term 'referendum' means the submission to popular vote, by the voters of the State, of a measure passed upon or proposed by a legislative body or by popular initiative; and

(4) the term 'anticipatory relief' means an interlocutory or permanent injunction or a declaratory judgment.

(c) EFFECTIVE DATE- This section applies to any application for anticipatory relief that is filed on or after the date of the enactment of this Act.

SEC. 3. INTERLOCUTORY APPEALS OF COURT ORDERS RELATING TO CLASS ACTIONS.

(a) INTERLOCUTORY APPEALS- Section 1292(b) of title 28, United States Code, is amended--

(1) by inserting '(1)' after '(b)'; and

(2) by adding at the end the following:

'(2) A party to an action in which the district court has made a determination of whether the action may be maintained as a class action may make application for appeal of that determination to the court of appeals which would have jurisdiction of an appeal of that action. The court of appeals may, in its discretion, permit the appeal to be taken from such determination if the application is made within 10 days after the entry of the court's determination relating to the class action. Application for an appeal under this paragraph shall not stay proceedings in the district court unless the district judge or the court of appeals or a judge thereof shall so order.'

(b) EFFECTIVE DATE- The amendment made by subsection (a) applies to any action commenced on or after the date of the enactment of this Act.

SEC. 4. PROCEEDINGS ON COMPLAINTS AGAINST JUDICIAL CONDUCT.

(a) REFERRAL OF PROCEEDINGS TO ANOTHER JUDICIAL CIRCUIT OR COURT- Section 372(c) of title 28, United States Code, is amended--

(1) in paragraph (1) by adding at the end the following: `In the case of a complaint so identified, the chief judge shall notify the clerk of the court of appeals of the complaint, together with a brief statement of the facts underlying the complaint.';

(2) in paragraph (2) in the second sentence by inserting `or statement of facts underlying the complaint (as the case may be)' after `copy of the complaint';

(3) in paragraph (3)--

(A) by inserting `(A)' after `(3)';

(B) by striking `may--' and all that follows through the end of subparagraph (B) and inserting the following: `may dismiss the complaint if the chief judge finds it to be--

(i) not in conformity with paragraph (1);

(ii) directly related to the merits of a decision or procedural ruling; or

(iii) frivolous.'; and

(C) by adding at the end the following:

(B) If the chief judge does not enter an order under subparagraph (A), then the complaint or (in the case of a complaint identified under paragraph (1)) the statement of facts underlying the complaint shall be referred to the chief judge of another judicial circuit for proceedings under this subsection (hereafter in this subsection referred to as the `chief judge'), in accordance with a system established by rule by the Judicial Conference, which prescribes the circuits to which the complaints will be referred. The Judicial Conference shall establish and submit to the Congress the system described in the preceding sentence not later than 180 days after the date of the enactment of the Judicial Reform Act of 1998.

(C) After expeditiously reviewing the complaint, the chief judge may, by written order explaining the chief judge's reasons, conclude the proceeding if the chief judge finds that appropriate corrective action has been taken or that action on the complaint is no longer necessary because of intervening events.';

(4) in paragraph (4)--

(A) by striking `paragraph (3)' and inserting `paragraph (3)(C)'; and

(B) in subparagraph (A) by inserting '(to which the complaint or statement of facts underlying the complaint is referred)' after 'the circuit';

(5) in paragraph (5)--

(A) in the first sentence by inserting 'to which the complaint or statement of facts underlying the complaint is referred' after 'the circuit'; and

(B) in the second sentence by striking 'the circuit' and inserting 'that circuit';

(6) in the first sentence of paragraph (15) by inserting before the period at the end the following: 'in which the complaint was filed or identified under paragraph (1)'; and

(7) by amending paragraph (18) to read as follows:

(18) The Judicial Conference shall prescribe rules, consistent with the preceding provisions of this subsection--

(A) establishing procedures for the filing of complaints with respect to the conduct of any judge of the United States Court of Federal Claims, the Court of International Trade, or the Court of Appeals for the Federal Circuit, and for the investigation and resolution of such complaints; and

(B) establishing a system for referring complaints filed with respect to the conduct of a judge of any such court to any of the first eleven judicial circuits or to another court for investigation and resolution.

The Judicial Conference shall establish and submit to the Congress the system described in subparagraph (B) not later than 180 days after the date of the enactment of the Judicial Reform Act of 1998.'

(b) DISCLOSURE OF INFORMATION- Section 372(c)(14) of title 28, United States Code, is amended--

(1) in subparagraph (B) by striking 'or' after the semicolon;

(2) in subparagraph (C) by striking the period at the end and inserting '; or'; and

(3) by adding after subparagraph (C) the following:

(D) such disclosure is made to another agency or instrumentality of any governmental

jurisdiction within or under the control the United States for a civil or criminal law enforcement activity authorized by law.'.

(c) EFFECTIVE DATE- The amendments made by subsection (a) apply to complaints filed on or after the 180th day after the date of the enactment of this Act.

SEC. 5. RANDOM ASSIGNMENT OF HABEAS CORPUS CASES.

Section 2241 of title 28, United States Code, is amended by adding at the end the following:

(e) Applications for writs of habeas corpus received in or transferred to a district court shall be randomly assigned to the judges of that court.'.

SEC. 6. AUTHORITY OF PRESIDING JUDGE TO ALLOW MEDIA COVERAGE OF COURT PROCEEDINGS.

(a) AUTHORITY OF APPELLATE COURTS- Notwithstanding any other provision of law, the presiding judge of an appellate court of the United States may, in his or her discretion, permit the photographing, electronic recording, broadcasting, or televising to the public of court proceedings over which that judge presides.

(b) AUTHORITY OF DISTRICT COURTS-

(1) IN GENERAL- Notwithstanding any other provision of law, any presiding judge of a district court of the United States may, in his or her discretion, permit the photographing, electronic recording, broadcasting, or televising to the public of court proceedings over which that judge presides.

(2) OBSCURING OF WITNESSES- (A) Upon the request of any witness in a trial proceeding other than a party, the court shall order the face and voice of the witness to be disguised or otherwise obscured in such manner as to render the witness unrecognizable to the broadcast audience of the trial proceeding.

(B) The presiding judge in a trial proceeding shall inform each witness who is not a party that the witness has the right to request that his or her image and voice be obscured during the witness' testimony.

(c) ADVISORY GUIDELINES- The Judicial Conference of the United States is authorized to promulgate advisory guidelines to which a presiding judge, in his or her discretion, may refer in making decisions with respect to the management and administration of photographing, recording, broadcasting, or televising described in subsections (a) and (b).

(d) DEFINITIONS- As used in this section:

(1) PRESIDING JUDGE- The term `presiding judge' means the judge presiding over the court proceeding concerned. In proceedings in which more than one judge participates, the presiding judge shall be the senior active judge so participating or, in the case of a circuit court of appeals, the senior active circuit judge so participating, except that--

(A) in en banc sittings of any United States circuit court of appeals, the presiding judge shall be the chief judge of the circuit whenever the chief judge participates; and

(B) in en banc sittings of the Supreme Court of the United States, the presiding judge shall be the Chief Justice whenever the Chief Justice participates.

(2) APPELLATE COURT OF THE UNITED STATES- The term `appellate court of the United States' means any United States circuit court of appeals and the Supreme Court of the United States.

(e) SUNSET- The authority under subsection (b) shall terminate on the date that is 3 years after the date of the enactment of this Act.

SEC. 7. MULTIPARTY, MULTIFORUM JURISDICTION OF DISTRICT COURTS.

(a) BASIS OF JURISDICTION-

(1) IN GENERAL- Chapter 85 of title 28, United States Code, is amended by adding at the end the following new section:

`Sec. 1370. Multiparty, multiforum jurisdiction

`(a) IN GENERAL- The district courts shall have original jurisdiction of any civil action involving minimal diversity between adverse parties that arises from a single accident, where at least 25 natural persons have either died or incurred injury in the accident at a discrete location and, in the case of injury, the injury has resulted in damages which exceed \$50,000 per person, exclusive of interest and costs, if--

`(1) a defendant resides in a State and a substantial part of the accident took place in another State or other location, regardless of whether that defendant is also a resident of the State where a substantial part of the accident took place;

`(2) any two defendants reside in different States, regardless of whether such defendants are also residents of the same State or States; or

`(3) substantial parts of the accident took place in different States.

`(b) SPECIAL RULES AND DEFINITIONS- For purposes of this section--

`(1) minimal diversity exists between adverse parties if any party is a citizen of a State and any adverse party is a citizen of another State, a citizen or subject of a foreign state, or a foreign state as defined in section 1603(a) of this title;

`(2) a corporation is deemed to be a citizen of any State, and a citizen or subject of any foreign state, in which it is incorporated or has its principal place of business, and is deemed to be a resident of any State in which it is incorporated or licensed to do business or is doing business;

`(3) the term `injury' means--

`(A) physical harm to a natural person; and

`(B) physical damage to or destruction of tangible property, but only if physical harm described in subparagraph (A) exists;

`(4) the term `accident' means a sudden accident, or a natural event culminating in an accident, that results in death or injury incurred at a discrete location by at least 25 natural persons; and

`(5) the term `State' includes the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States.

`(c) INTERVENING PARTIES- In any action in a district court which is or could have been brought, in whole or in part, under this section, any person with a claim arising from the accident described in subsection (a) shall be permitted to intervene as a party plaintiff in the action, even if that person could not have brought an action in a district court as an original matter.

`(d) NOTIFICATION OF JUDICIAL PANEL ON MULTIDISTRICT LITIGATION- A district court in which an action under this section is pending shall promptly notify the judicial panel on multidistrict litigation of the pendency of the action.'.

(2) CONFORMING AMENDMENT- The table of sections at the beginning of

chapter 85 of title 28, United States Code, is amended by adding at the end the following new item:

^1370. Multiparty, multiform jurisdiction.'.

(b) VENUE- Section 1391 of title 28, United States Code, is amended by adding at the end the following:

^ (g) A civil action in which jurisdiction of the district court is based upon section 1370 of this title may be brought in any district in which any defendant resides or in which a substantial part of the accident giving rise to the action took place.'.

(c) MULTIDISTRICT LITIGATION- Section 1407 of title 28, United States Code, is amended by adding at the end the following:

^ (i) (1) In actions transferred under this section when jurisdiction is or could have been based, in whole or in part, on section 1370 of this title, the transferee district court may, notwithstanding any other provision of this section, retain actions so transferred for the determination of liability and punitive damages. An action retained for the determination of liability shall be remanded to the district court from which the action was transferred, or to the State court from which the action was removed, for the determination of damages, other than punitive damages, unless the court finds, for the convenience of parties and witnesses and in the interest of justice, that the action should be retained for the determination of damages.

^ (2) Any remand under paragraph (1) shall not be effective until 60 days after the transferee court has issued an order determining liability and has certified its intention to remand some or all of the transferred actions for the determination of damages. An appeal with respect to the liability determination and the choice of law determination of the transferee court may be taken during that 60-day period to the court of appeals with appellate jurisdiction over the transferee court. In the event a party files such an appeal, the remand shall not be effective until the appeal has been finally disposed of. Once the remand has become effective, the liability determination and the choice of law determination shall not be subject to further review by appeal or otherwise.

^ (3) An appeal with respect to determination of punitive damages by the transferee court may be taken, during the 60-day period beginning on the date the order making the determination

is issued, to the court of appeals with jurisdiction over the transferee court.

“(4) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.

“(5) Nothing in this subsection shall restrict the authority of the transferee court to transfer or dismiss an action on the ground of inconvenient forum.”

(d) REMOVAL OF ACTIONS- Section 1441 of title 28, United States Code, is amended--

(1) in subsection (e) by striking “(e) The court to which such civil action is removed” and inserting “(f) The court to which a civil action is removed under this section”; and

(2) by inserting after subsection (d) the following new subsection:

“(e) (1) Notwithstanding the provisions of subsection (b) of this section, a defendant in a civil action in a State court may remove the action to the district court of the United States for the district and division embracing the place where the action is pending if--

“(A) the action could have been brought in a United States district court under section 1370 of this title; or

“(B) the defendant is a party to an action which is or could have been brought, in whole or in part, under section 1370 in a United States district court and arises from the same accident as the action in State court; even if the action to be removed could not have been brought in a district court as an original matter.

The removal of an action under this subsection shall be made in accordance with section 1446 of this title, except that a notice of removal may also be filed before trial of the action in State court within 30 days after the date on which the defendant first becomes a party to an action under section 1370 in a United States district court that arises from the same accident as the action in State court, or at a later time with leave of the district court.

“(2) Whenever an action is removed under this subsection and the district court to which it is removed or transferred under section 1407(i) has made a liability determination requiring further proceedings as to damages, the district court shall remand the action to the State court from which it had been removed for the determination of

damages, unless the court finds that, for the convenience of parties and witnesses and in the interest of justice, the action should be retained for the determination of damages.

^(3) Any remand under paragraph (2) shall not be effective until 60 days after the district court has issued an order determining liability and has certified its intention to remand the removed action for the determination of damages. An appeal with respect to the liability determination and the choice of law determination of the district court may be taken during that 60-day period to the court of appeals with appellate jurisdiction over the district court.

In the event a party files such an appeal, the remand shall not be effective until the appeal has been finally disposed of. Once the remand has become effective, the liability determination and the choice of law determination shall not be subject to further review by appeal or otherwise.

^(4) Any decision under this subsection concerning remand for the determination of damages shall not be reviewable by appeal or otherwise.

^(5) An action removed under this subsection shall be deemed to be an action under section 1370 and an action in which jurisdiction is based on section 1368 of this title for purposes of this section and sections 1407, 1660, 1697, and 1785 of this title.

^(6) Nothing in this subsection shall restrict the authority of the district court to transfer or dismiss an action on the ground of inconvenient forum.'.

(e) CHOICE OF LAW-

(1) DETERMINATION BY THE COURT- Chapter 111 of title 28, United States Code, is amended by adding at the end the following new section:

^Sec. 1660. Choice of law in multiparty, multiforum actions

^(a) FACTORS- In an action which is or could have been brought, in whole or in part, under section 1370 of this title, the district court in which the action is brought or to which it is removed shall determine the source of the applicable substantive law, except that if an action is transferred to another district court, the transferee court shall determine the source of the applicable substantive law. In making this determination, a district court shall not be bound by the choice of law rules of any State, and the factors that the court may consider in choosing the applicable law include--

^(1) the place of the injury;

- ^(2) the place of the conduct causing the injury;
- ^(3) the principal places of business or domiciles of the parties;
- ^(4) the danger of creating unnecessary incentives for forum shopping; and
- ^(5) whether the choice of law would be reasonably foreseeable to the parties.

The factors set forth in paragraphs (1) through (5) shall be evaluated according to their relative importance with respect to the particular action. If good cause is shown in exceptional cases, including constitutional reasons, the court may allow the law of more than one State to be applied with respect to a party, claim, or other element of an action.

^(b) ORDER DESIGNATING CHOICE OF LAW- The district court making the determination under subsection (a) shall enter an order designating the single jurisdiction whose substantive law is to be applied in all other actions under section 1370 arising from the same accident as that giving rise to the action in which the determination is made. The substantive law of the designated jurisdiction shall be applied to the parties and claims in all such actions before the court, and to all other elements of each action, except where Federal law applies or the order specifically provides for the application of the law of another jurisdiction with respect to a party, claim, or other element of an action.

^(c) CONTINUATION OF CHOICE OF LAW AFTER REMAND- In an action remanded to another district court or a State court under section 1407(i)(1) or 1441(e)(2) of this title, the district court's choice of law under subsection (b) shall continue to apply.'

(2) CONFORMING AMENDMENT- The table of sections at the beginning of chapter 111 of title 28, United States Code, is amended by adding at the end the following new item:

'1660. Choice of law in multiparty, multiform actions.'

(f) SERVICE OF PROCESS-

(1) OTHER THAN SUBPOENAS- (A) Chapter 113 of title 28, United States Code, is amended by adding at the end the following new section:

'Sec. 1697. Service in multiparty, multiform actions

'When the jurisdiction of the district court is based in whole or in

part upon section 1370 of
 this title, process, other than subpoenas, may be served at any place
 within the United States,
 or anywhere outside the United States if otherwise permitted by law.'.

(B) The table of sections at the beginning of chapter 113 of
 title 28, United States
 Code, is amended by adding at the end the following new item:

`1697. Service in multiparty, multiform actions.'.

(2) SERVICE OF SUBPOENAS- (A) Chapter 117 of title 28, United
 States Code,
 is amended by adding at the end the following new section:

`Sec. 1785. Subpoenas in multiparty, multiform actions

`When the jurisdiction of the district court is based in whole or in
 part upon section 1370 of
 this title, a subpoena for attendance at a hearing or trial may, if
 authorized by the court upon
 motion for good cause shown, and upon such terms and conditions as
 the court may impose,
 be served at any place within the United States, or anywhere outside
 the United States if
 otherwise permitted by law.'.

(B) The table of sections at the beginning of chapter 117 of
 title 28, United States
 Code, is amended by adding at the end the following new item:

`1785. Subpoenas in multiparty, multiform actions.'.

(g) EFFECTIVE DATE- The amendments made by this section shall apply
 to a civil action if
 the accident giving rise to the cause of action occurred on or after
 the 90th day after the date
 of the enactment of this Act.

SEC. 8. APPEALS OF MERIT SYSTEMS PROTECTION BOARD.

(a) APPEALS- Section 7703 of title 5, United States Code, is amended--

(1) in subsection (b)(1), by striking `30' and inserting `60';
 and

(2) in the first sentence of subsection (d), by inserting after
 `filing' the following: `
 within 60 days after the date the Director received notice of
 the final order or decision
 of the Board,'.

(b) EFFECTIVE DATE- The amendments made by subsection (a) take effect
 on the date of
 the enactment of this Act and apply to any administrative or judicial
 proceeding pending on
 that date or commenced on or after that date.

SEC. 9. EXTENSION OF JUDICIARY INFORMATION TECHNOLOGY FUND.

Section 612 of title 28, United States Code, is amended--

(1) by striking 'equipment' each place it appears and inserting 'resources';

(2) by striking subsection (f) and redesignating subsequent subsections accordingly;

(3) in subsection (g), as so redesignated, by striking paragraph (3); and

(4) in subsection (i), as so redesignated--

(A) by striking 'Judiciary' each place it appears and inserting 'judiciary';

(B) by striking 'subparagraph (c)(1)(B)' and inserting 'subsection (c)(1)(B)';
and

(C) by striking 'under (c)(1)(B)' and inserting 'under subsection (c)(1)(B)'.

SEC. 10. OFFSETTING RECEIPTS.

For fiscal year 1999 and thereafter, any portion of miscellaneous fees collected as prescribed

by the Judicial Conference of the United States pursuant to sections 1913, 1914(b),

1926(a), 1930(b), and 1932 of title 28, United States Code, exceeding the amount of such

fees in effect on September 30, 1998, shall be deposited into the special fund of the Treasury

established under section 1931 of title 28, United States Code.

SEC. 11. MEMBERSHIP IN CIRCUIT JUDICIAL COUNCILS.

Section 332(a) of title 28, United States Code, is amended--

(1) by striking paragraph (1) and inserting the following:

'(1) The chief judge of each judicial circuit shall call and preside at a meeting of the judicial

council of the circuit at least twice in each year and at such places as he or she may

designate. The council shall consist of an equal number of circuit judges (including the chief

judge of the circuit) and district judges, as such number is determined by majority vote of all

such judges of the circuit in regular active service.';

(2) by striking paragraph (3) and inserting the following:

'(3) Except for the chief judge of the circuit, either judges in regular active service or judges

retired from regular active service under section 371(b) of this title may serve as members of

the council.'; and

(3) by striking `retirement,' in paragraph (5) and inserting
`retirement under section
371(a) or section 372(a) of this title,'.

SEC. 12. SUNSET OF CIVIL JUSTICE EXPENSE AND DELAY
REDUCTION PLANS.

Section 103(b)(2)(A) of the Civil Justice Reform Act of 1990 (Public
Law 101-650; 104
Stat. 5096; 28 U.S.C. 471 note), as amended by Public Law 105-53 (111
Stat. 1173), is
amended by inserting `471,' after `sections'.

SEC. 13. CREATION OF CERTIFYING OFFICERS IN THE JUDICIAL
BRANCH.

(a) APPOINTMENT OF DISBURSING AND CERTIFYING OFFICERS- Chapter 41
of title 28, United States Code, is amended by adding at the end the
following new section:

`Sec. 613. Disbursing and certifying officers

`(a) DISBURSING OFFICERS- The Director may designate in writing
officers and
employees of the judicial branch of the Government, including the
courts as defined in section
610 other than the Supreme Court, to be disbursing officers in such n
umbers and locations as
the Director considers necessary. Such disbursing officers shall--

`(1) disburse moneys appropriated to the judicial branch and
other funds only in strict
accordance with payment requests certified by the Director or in
accordance with
subsection (b);

`(2) examine payment requests as necessary to ascertain whether
they are in proper
form, certified, and approved; and

`(3) be held accountable for their actions as provided by law,
except that such a
disbursing officer shall not be held accountable or responsible
for any illegal, improper,
or incorrect payment resulting from any false, inaccurate, or
misleading certificate for
which a certifying officer is responsible under subsection (b).

`(b) CERTIFYING OFFICERS- (1) The Director may designate in writing
officers and
employees of the judicial branch of the Government, including the
courts as defined in section
610 other than the Supreme Court, to certify payment requests payable
from appropriations
and funds. Such certifying officers shall be responsible and
accountable for--

`(A) the existence and correctness of the facts recited in the
certificate or other request
for payment or its supporting papers;

^(B) the legality of the proposed payment under the appropriation or fund involved;
and

^(C) the correctness of the computations of certified payment requests.

^(2) The liability of a certifying officer shall be enforced in the same manner and to the same extent as provided by law with respect to the enforcement of the liability of disbursing and other accountable officers. A certifying officer shall be required to make restitution to the United States for the amount of any illegal, improper, or incorrect payment resulting from any false, inaccurate, or misleading certificates made by the certifying officer, as well as for any payment prohibited by law or which did not represent a legal obligation under the appropriation or fund involved.

^(c) RIGHTS- A certifying or disbursing officer--

^(1) has the right to apply for and obtain a decision by the Comptroller General on any question of law involved in a payment request presented for certification; and

^(2) is entitled to relief from liability arising under this section in accordance with title 31, United States Code.

^(d) OTHER AUTHORITY NOT AFFECTED- Nothing in this section affects the authority of the courts with respect to moneys deposited with the courts under chapter 129 of this title.'

(b) CONFORMING AMENDMENT- The table of sections for chapter 41 of title 28, United States Code, is amended by adding at the end the following item:

^613. Disbursing and certifying officers.'

(c) DUTIES OF DIRECTOR- Paragraph (8) of subsection (a) of section 604 of title 28, United States Code, is amended to read as follows:

^(8) Disburse appropriations and other funds for the maintenance and operation of the courts;'

SEC. 14. LIMITATION ON PRISONER RELEASE ORDERS.

(a) IN GENERAL- Chapter 99 of title 28, United States Code, is amended by adding at the end the following new section:

`Sec. 1632. Limitation on prisoner release orders

`(a) LIMITATION- Notwithstanding section 3626(a)(3) of title 18 or any other provision of law, in a civil action with respect to prison conditions, no court of the United States or other court listed in section 610 shall have jurisdiction to enter or carry out any prisoner release order that would result in the release from or nonadmission to a prison, on the basis of prison conditions, of any person subject to incarceration, detention, or admission to a facility because of a conviction of a felony under the laws of the relevant jurisdiction, or a violation of the terms or conditions of parole, probation, pretrial release, or a diversionary program, relating to the commission of a felony under the laws of the relevant jurisdiction.

`(b) DEFINITIONS- As used in this section--

`(1) the terms `civil action with respect to prison conditions', `prisoner', `prisoner release order', and `prison' have the meanings given those terms in section 3626(g) of title 18; and

`(2) the term `prison conditions' means conditions of confinement or the effects of actions by government officials on the lives of persons confined in prison.

(b) CONFORMING AMENDMENT- The table of sections for chapter 99 of title 28, United States Code, is amended by adding at the end the following new item:

`1632. Limitation on prisoner release orders.'.

(c) CONSENT DECREES-

(1) TERMINATION OF EXISTING CONSENT DECREES- Any consent decree that was entered into before the date of the enactment of the Prison Litigation Reform Act of 1995, that is in effect on the day before the date of the enactment of this Act, and that provides for remedies relating to prison conditions shall cease to be effective on the date of the enactment of this Act.

(2) DEFINITIONS- As used in this subsection--

(A) the term `consent decree' has the meaning given that term in section 3626(g) of title 18, United States Code; and

(B) the term `prison conditions' has the meaning given that term in section 1632(c) of title 28, United States Code, as added by subsection (a) of this

section.

Passed the House of Representatives April 23, 1998.

Attest:

Clerk.

END

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Mindy E. Myers (CN=Mindy E. Myers/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:27-APR-1998 17:48:38.00

SUBJECT: Child Care mtg

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

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

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

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

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

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

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

CC: Dario J. Gomez (CN=Dario J. Gomez/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

The child care mtg is set for 10am on Thursday (4/30) in the Ward Room.

Thanks-
Mindy

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Mindy E. Myers (CN=Mindy E. Myers/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:27-APR-1998 15:53:49.00

SUBJECT: Caucus Group on Child Care

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

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

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

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

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

CC: Dario J. Gomez (CN=Dario J. Gomez/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

TEXT:

I was wondering if 1:00pm on Wednesday would work for a child care "regrouping" mtg.
Please let me know --

Thanks-
Mindy

----- Forwarded by Mindy E. Myers/WHO/EOP on 04/27/98
03:43 PM -----

JANET MURGUIA
04/27/98 11:45:39 AM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: Mindy E. Myers/WHO/EOP
Subject: Caucus Group on Child Care

I'm going to have Mindy try to get a time on Wednesday so that we can regroup - we'll include Mary Bourdette and Rich Tarplin.
----- Forwarded by Janet Murguia/WHO/EOP on 04/27/98
10:45 AM -----

Charles M. Brain
04/27/98 10:04:36 AM
Record Type: Record

To: Jennifer L. Klein/OPD/EOP
cc: Janet Murguia/WHO/EOP
Subject: Caucus Group on Child Care

Jen:

Andi King just let me know that the House Democratic Caucus Child Care group has been set up ("at least on paper"). The first meeting is scheduled for this Thursday at 2:30 PM in room HC-9 in the Capitol. I'll get the list of MC's to you as soon as I get it.

Andi suggested that the Admin would probably want to have a presence at this meeting. We should get together and discuss.

Jen: could you contact whomever needs to know about this. Thanks.

Message Sent

To:

Jennifer L. Klein/OPD/EOP
Charles M. Brain/WHO/EOP
Nicole R. Rabner/WHO/EOP
Neera Tanden/WHO/EOP
Elena Kagan/OPD/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: June G. Turner (CN=June G. Turner/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 27-APR-1998 09:59:54.00

SUBJECT: PIR Ad Bd Meeting

TO: Jacinta Ma (CN=Jacinta Ma/OU=PIR/O=EOP @ EOP [PIR])
READ: UNKNOWN

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

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

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

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

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

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

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

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

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

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

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

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

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

CC: Marjorie A. Black (CN=Marjorie A. Black/OU=PIR/O=EOP @ EOP [PIR])
READ: UNKNOWN

TEXT:

I apologize in advance for the short notice, however there will be a PIR Ad Bd Meeting today at 3:00pm in the Roosevelt Room.

Attendees:

Sylvia Mathews

Rahm Emanuel
Counsel's Office
Judy Winston
Paul Begala
Elena Kagan
Jose Cerda
Ann Lewis
Stacie Spector
Minyon Moore
Richard Socarides
Andrew Mayock
Jacinta Ma

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Richard Socarides (CN=Richard Socarides/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:27-APR-1998 11:02:28.00

SUBJECT: The General's office just called me.

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

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

TEXT:

He's inviting me over for a little chat on strategic positioning in the gay community.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Dario J. Gomez (CN=Dario J. Gomez/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 27-APR-1998 16:37:22.00

SUBJECT: Needles Exchange Meeting

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

READ: UNKNOWN

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

READ: UNKNOWN

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

READ: UNKNOWN

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

READ: UNKNOWN

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

READ: UNKNOWN

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

READ: UNKNOWN

CC: Suzanne Dale (CN=Suzanne Dale/OU=WHO/O=EOP @ EOP [WHO])

READ: UNKNOWN

CC: Mindy E. Myers (CN=Mindy E. Myers/OU=WHO/O=EOP @ EOP [WHO])

READ: UNKNOWN

CC: Marjorie Tarmey (CN=Marjorie Tarmey/OU=WHO/O=EOP @ EOP [WHO])

READ: UNKNOWN

TEXT:

There will be a Needles Exchange meeting tomorrow at 12:00 pm in 211 OEOB w/ Rich Tarplin w/ HHS. This meeting is in anticipation of Needles Exchange legislation coming to the House floor this Wednesday. Please let me know if you are unable to attend.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: June Shih (CN=June Shih/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:27-APR-1998 11:12:14.00

SUBJECT: tobacco revised

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

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

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

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

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

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

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

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

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

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

TEXT:

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D46]MAIL40923461Z.126 to ASCII,
The following is a HEX DUMP:

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FEBD4CB542C43BB0512B37EE28377346BB836D5F568E34DFC5F6110D63A6AEA986D6A5BD9D2F27
47F43F615B11AB3A14A40101979B5DC6D48D0B6B5E46BACC5816BEB4D90B8F5DCDE76084DB1B6A
7547DA7926B471174A343D95034BD6A64D6532B0266C201DF2C00086408AE19C17DD8BB12527D7
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F755D6B4E31D3935509824C4DC8FAE0E6CF41A7E9F48D0D9705398168F147717AAEB336088181D
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```

**PRESIDENT WILLIAM J. CLINTON
REMARKS FOR SURGEON GENERAL'S REPORT
THE WHITE HOUSE
APRIL 27, 1998**

Anyone who has ever been a parent knows the absolute joy -- and the awesome responsibility -- that comes with raising a child. We have an instinctive urge to protect our young people from danger. We do everything we can to keep them safe -- from strapping on their seat belts in the car, to bundling them up against the winter cold, to walking them to school each day. We should wrap the same protective arm around them when it comes to resisting smoking and the advertising and marketing of cigarettes. Our children face no greater danger.

Today, one-third of America's teenagers smoke -- one out of three. And the report issued by Dr. Satcher today shows that more and more teenagers are becoming hooked on cigarettes. Smoking rates are up among teens of all backgrounds -- up among whites, Asians, Hispanics, Native Americans, and up most dramatically among African-Americans. These are children, just starting out in life, for whom we should clear the way and assure the brightest possible future. Instead, they are becoming hooked on a habit that may kill them, all because they are the target of a sophisticated and decades-long marketing campaign. It is a strategy that must come to an end.

The cold hard facts are adding up. The call to action is getting louder. And time is running out. Congress has an important opportunity to pass a comprehensive bipartisan tobacco bill that can help save the lives of millions of our children -- that will cut teen smoking by raising the price of cigarettes, putting into place tough restrictions on advertising and access, imposing strong penalties on the industry if it continues to sell cigarettes to children, and ensuring that the FDA has authority to regulate tobacco products -- all while protecting farmers and farming communities.

Senator McCain's bipartisan bill is a strong step in this direction. Make no mistake about it: The legislation explicitly changes the rules of the game so that the tobacco industry can no longer do what it has done for years -- profit at the expense of our children's health. I want to thank Senator Frist for working so hard to make sure the bill provides the FDA full authority over tobacco products.

It is time to end the delay. It seems as if we're in a situation where we know what the danger is -- too many children lured to smoking by multi-million dollar advertising campaigns that have targeted our youth for decades. We know what the remedy is -- tough, comprehensive bipartisan legislation to end these practices and cut teen smoking. No parent who knows how to protect a child from a known danger would stand by and do nothing. For our children's sake, we must not walk away from this session of Congress without a comprehensive tobacco bill.

I call upon all Democrats and Republicans to put politics aside and put our children first. This Spring, we have a tremendous and unprecedented opportunity to open a new, hopeful

Automated Records Management System
Hex-Dump Conversion

chapter in America's efforts to protect the health of our children. We must not let this opportunity slip away.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:27-APR-1998 19:37:30.00

SUBJECT: POTUS CALENDAR

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

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

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

TO: Essence P. Washington (CN=Essence P. Washington/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

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

TO: Tanya E. Martin (CN=Tanya E. Martin/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: Neera Tanden (CN=Neera Tanden/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: Cathy R. Mays (CN=Cathy R. Mays/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: Donna L. Geisbert (CN=Donna L. Geisbert/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

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

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

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

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

READ:UNKNOWN

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

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

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

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

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

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

TO: WEINSTEIN_P (WEINSTEIN_P @ A1 @ CD @ VAXGTWY [UNKNOWN]) (OPD).
 READ:UNKNOWN

TEXT:

Please note there are only three open days in May for Message Events, so if you have any suggestions we should submit them asap.

This Week:

| | | |
|------|---------|--|
| Tue | 4/28 | Statement on Social Security |
| Wed | 4/29 | Congressional Leadership Mtg followed by statement on NATO |
| Thur | 4/30 | U.S. Olympic Event Economic Statement on GDP |
| Fri | 5/1 | Economic/Trade Speech (Northern California) Tape Radio Address TBD -- Options: International Crime or Tobacco Counteradvertising. |
| Mon | 5/4 | Climate Change Event (Los Angeles) Moseley-Braun Fundraiser (Chicago) |
| Tue | 5/5 | Reagan Building Dedication Tape Videos |
| Wed | 5/6 | Italian State Visit |
| Thur | 5/7 | Education Meeting w/ Mayors - Educ. Opportunity Zones |
| Fri | 5/8 | Speech to Delaware State Legislature on Class Size Tape Radio Address -- Possible Child Care Mother's Day Message |
| Mon | 5/11 | POTUS OFF |
| Tue | 5/12-21 | FOREIGN TRAVEL |
| Thur | 5/21 | OPEN for Message Event |
| Fri | 5/22 | Commencement Speech (U.S. Naval Academy) Tape Radio Address TBD |
| Mon | 5/25 | Memorial Day Events |
| Tues | 5/26 | POTUS OFF |
| Wed | 5/27 | Welfare to Work Anniversary Event |

| | | |
|------|------|------------------------|
| Thur | 5/28 | OPEN for Message Event |
| Fri | 5/29 | OPEN for Message Event |
| | | Tape Radio Address TBD |

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 27-APR-1998 18:22:47.00

SUBJECT: LRM #IMS 309 - H1B Temporary Immigrant Visa Program Reforms

TO: lrm@nsf.gov (lrm@nsf.gov @ inet [UNKNOWN])
READ: UNKNOWN

TO: lrm@os.dhhs.gov (lrm@os.dhhs.gov @ inet [UNKNOWN])
READ: UNKNOWN

TO: blue_gloria@ustr.gov@INET@VAXGTWY (blue_gloria@ustr.gov@INET@VAXGTWY [UNKNOWN])
READ: UNKNOWN

TO: clrm@doc.gov (clrm@doc.gov @ inet [UNKNOWN])
READ: UNKNOWN

TO: US@2=TELEMAIL@5=JMD@7=Deborah@6=Clifton@mrx@lngtwy (1=US@2=TELEMAIL@5=JMD@7=Deborah@6=Clifton@mrx@lngtwy [UNKNOWN])
READ: UNKNOWN

TO: Maria J. Hanratty (CN=Maria J. Hanratty/OU=CEA/O=EOP@EOP [CEA])
READ: UNKNOWN

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

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

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

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

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

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

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

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

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

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

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TO: Mary Jo Siclari (CN=Mary Jo Siclari/OU=OMB/O=EOP@EOP [OMB])

READ:UNKNOWN

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

TO: Evan T. Farley (CN=Evan T. Farley/OU=OMB/O=EOP@EOP [OMB])
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TO: Barbara Chow (CN=Barbara Chow/OU=OMB/O=EOP@EOP [OMB])
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TO: ogc_legislation@ed.gov (ogc_legislation@ed.gov @inet [UNKNOWN])
READ:UNKNOWN

TO: dodlrs@osdgc.osd.mil (dodlrs@osdgc.osd.mil @ inet [UNKNOWN])
READ:UNKNOWN

TO: collins_peter@ustr.gov@INET@VAXGTWY (collins_peter@ustr.gov@INET@VAXGTWY [UNKN
READ:UNKNOWN

TO: US@2=TELEMAIL@3=GOV+TREAS@5=DO@4=MS01@7=LLR@6=TREASURY@mrx@lngtwy (1=US@2=TELEM
READ:UNKNOWN

TO: dol-sol-leg@dol.gov (dol-sol-leg@dol.gov @ inet [UNKNOWN])
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TO: Daniel J. Chenok (CN=Daniel J. Chenok/OU=OMB/O=EOP@EOP [OMB])
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TO: Sandra Yamin (CN=Sandra Yamin/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

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

TEXT:
You will not receive a paper copy of this LRM.
Total Pages: _____

LRM ID: IMS309
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Monday, April 27, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: James J. Jukes (for) Assistant Director for Legislative Reference
OMB CONTACT: Ingrid M. Schroeder
PHONE: (202)395-3883 FAX: (202)395-3109

SUBJECT: H1B Temporary Immigrant Visa Program Reforms

DEADLINE: COB Tuesday, April 28, 1998

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the

program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: This document is intended to be characterized as an Administration offer during discussions with Members of Congress this week.
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EOP:

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Rebecca M. Blank
Maria J. Hanratty

James C. Murr

LRM ID: IMS309 SUBJECT: H1B Temporary Immigrant Visa Program Reforms

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

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

You may also respond by:

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

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

TO: Ingrid M. Schroeder Phone: 395-3883 Fax: 395-3109
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-3454

FROM: _____ (Date)

_____ (Name)
_____ (Agency)
_____ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet

April 27, 1998

Draft Proposals Regarding Reform to the H-1B Visa Program

The Administration has committed to pursuing both reforms to the H-1B visa program and increased training opportunities for U.S. workers as part of any legislation that would temporarily raise the annual cap on H-1B visas. The following are some draft proposals for reform of the H-1B visa program.

I. Recruitment and Non-displacement of United States Workers Prior to Seeking Nonimmigrant Workers

(a) IN GENERAL -- Section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)) is amended by inserting at the end the following new subparagraph:

(E)(I) The employer, prior to filing the application, has taken good faith, timely and significant steps to recruit and retain sufficient U.S. workers in the specialty occupation in which the non-immigrant whose services are being sought will be employed. Good faith steps to recruit and retain shall be defined as:

(a) the employer taking the following two actions in a manner reasonably designed to recruit and retain U.S. workers:

(i) widespread advertising of the relevant job openings to both current and prospective employees (e.g., through America's Job Bank, participation in job fairs, the Internet, employer newsletters and electronic communications, general circulation publications, professional journals and magazines); and

(ii) offering meaningful monetary incentives to applicants (such as paying above the prevailing wage, paying bonuses, or providing stock options) above those already included in the base compensation package; or offering training subsidies, or a training program, that provides the means for its current employees to enhance their skills to qualify for jobs in the specialty occupation in which the nonimmigrant will be (or is) employed; and

(b) The employer did not receive applications from any U.S worker with at least substantially equivalent qualifications and experience to the temporary foreign worker offered employment; or (ii) offered employment to a U.S. worker with at least substantially equivalent qualifications and experience to the temporary foreign worker offered

employment, but the offer of employment to the U.S. worker was refused; and

(c) Offering compensation at least at the amount required by subparagraph (A).

(E)(II) The recruitment requirements of this subparagraph shall not apply to aliens with extraordinary ability, aliens who are outstanding professors and researchers, and certain multinational executives and managers described in section 203(b)(1). The recruitment requirements of this subparagraph shall also not apply to a scientist, mathematician, or engineer who has attained at least a master's degree or its equivalent in a scientific or engineering discipline, and who is coming temporarily to the United States to participate in a cooperative joint scientific activity carried out under an Agreement between the Federal Government and the alien's Government.

(F)(I) The employer --

(a) has not and will not -- within the 90-day period immediately preceding and the 90-day period immediately following the filing of the application, and within the 90-day period immediately preceding and the

90-day period immediately following the filing of any visa petition supported by the application -- lay off or otherwise displace any United States worker, including a worker obtained by contract, employee leasing, temporary help agreements, or otherwise displace any United States worker, including a worker obtained by contract, employee leasing, temporary help agreement, or other similar basis, who has substantially equivalent qualifications and experience in the specialty occupation in which the nonimmigrant will be (or is) employed; and

(F) (II) For purposes of this subparagraph, the term "laid off" with respect to an employee, means the employee's loss of employment, other than a discharge for cause or a voluntary departure or voluntary retirement. The term "laid off" does not apply to any case in which employment is relocated to a different geographic area and the affected employee is offered a chance to move to the new location with the same wages and benefits, but elects not to move to the new location.

(G) The employer offered compensation as required by subparagraph (A).

(b) For purposes of this subsection, the term "United States worker" means --

- (I) a citizen or national of the United States
- (II) an alien lawfully admitted to the United States for permanent residence; or
- (III) an alien authorized to be employed by this Act or by the Attorney General.

II. Wage Comparability

Section 212(n)(1)(A)(I) of such Act is amended by inserting "(including the value of benefits and additional compensation)" after "wages."
 Section 212(n)(1)(A)(I)(I) is amended by inserting "(including the value of benefits and additional compensation)" after "actual wage level."

III. Job Contractors

In the case of an employer that is a job contractor (within the meaning of regulations promulgated by the Secretary of Labor to carry out this subsection), the contractor will not place any H-1B employee with another employer unless such other employer has executed an attestation that the employer is complying and will continue to comply with the requirements of this paragraph in the same manner as they apply to the job contractor.

IV. Enforcement

(a) Independent Authority to Investigate

Section 212(n) of the Immigration and Nationality Act (8 U.S.C. 1182(n)) is amended --

(I) in paragraph (2)(A), by striking the first sentence and inserting the following:

"The Secretary may conduct investigations pursuant to a complaint or, absent a complaint, where the Secretary has reasonable cause to believe that:

(a) there is a pattern or practice of: complaints by U.S. workers

against the employer; unsuccessful recruitment by the employer; or violations by the employer;

(b) the employer's U.S. workforce is comprised of more than 10%

nonimmigrant workers or the employer is making application that would result in more than 10% nonimmigrant workers in its U.S. workforce;

(c) an employer has laid off or otherwise displaced more than 10% of its U.S. workforce or 100 U.S. workers (whichever is fewer) in any one year period (or has announced the intent to make such a lay-off).

The Secretary shall establish a process for the receipt, investigation, and disposition of complaints or other cases of noncompliance with this section.

(II) in paragraph (2)(C), by inserting "&, or that the employer failed to cooperate in the conduct of the Secretary's investigation or has intimidated, discharged, or otherwise discriminated against any person because that person has asserted a right or has cooperated in an investigation under this paragraph" after "a material fact in an application."

(III) in paragraph (2), by adding at the end the following new subparagraph:

(E) The Secretary may issue subpoenas requiring the attendance and testimony of witnesses or the production of any records, books, papers, or documents in connection with any investigation or hearing, conducted under this paragraph. In conducting a hearing, the Secretary may administer oaths, examine witnesses, and receive evidence. For the purpose of any hearing or investigation provided for in this paragraph, the authority contained in sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49 and 50), relating to the attendance of witnesses and the production of books, papers, and documents, shall apply.

V. Sanctions

Section 212(n)(2)(C) is amended to read:

If the Secretary finds, after notice and opportunity for a hearing, a failure to meet a condition of paragraph (1)(B); a substantial failure to meet a condition of paragraphs (1)(C) or (1)(D); a willful failure to meet a condition of paragraph (1)(A); a violation(s) of paragraphs (1)(E) or (1)(F) that is willful, or reflects a pattern or practice of violations, or is a violation that affects a significant number of individuals; or a misrepresentation of a material fact in the application (but any misrepresentation of a material fact relating to paragraphs (1)(E) or (1)(F) must be willful, or reflects a pattern or practice of

violations, or is a violation that affects a significant number of individuals) *

(i) the Secretary shall notify the Attorney General of such finding and may, in addition, impose such other administrative remedies (including civil monetary penalties in an amount not to exceed \$5,000 per violation) as the Secretary determines to be appropriate,

VI. Application Fee

Section 212(n) of the Immigration and Nationality Act (8 USC 1182(n)) is

amended by adding the following new paragraph:

□(3)(A) The Secretary of Labor shall establish, by regulation, a fee to be paid by an employer for each position for which an application is filed for certification of a nonimmigrant temporary worker under section 101(a)(15)(H)(i)(b) and (c).

(B) The fee shall be set at a level that --

(i) will ensure recovery of the full costs of providing adjudication and application services; and,

(ii) finances activities authorized under Section XXXXX (the Regional and Industry Special Skills Training Fund).

(C) During the period ending September 30, 2001, such a fee shall not exceed \$250 for each position.

(D) (i) It shall be unlawful for an employer to require, as a condition of employment by such employer, that the fee prescribed under this paragraph or any part of the fee be paid directly or indirectly by the alien whose services are being sought.

(ii) Any person or entity that is determined, after notice and opportunity for an administrative hearing, to have violated clause (I) shall be subject to a civil penalty of \$5,000 for each violation, to an administrative order requiring the payment of any fee described in this paragraph, and the disqualification for one year from petitioning for temporary nonimmigrant workers under this subsection.

(iii) Any amount determined to have been paid, directly or indirectly, toward the filing fee described in paragraph (3)(A) by the alien whose services were sought, shall be repaid by the employer to such alien.

(E) Notwithstanding any other provision of law, all fees, as described in this paragraph as are designated by the Secretary of Labor in regulations shall be deposited as offsetting receipts into a separate account entitled □Temporary Worker Fee Account□8 in the Treasury of the United States. All deposits into the □Temporary Worker Fee Account□8 shall remain available until expended by the Secretary to reimburse any appropriation for expenses related to activities described in subparagraph (B).□8

VII. Training

At the appropriate place, insert the following new section:

SEC. ____ REGIONAL AND INDUSTRY SPECIAL SKILLS TRAINING GRANTS.

(a) IN GENERAL.-- Amounts available for carrying out this section from the Temporary Worker Fee Account under paragraph (3)(A) of section 212(n) of the Immigration and Nationality Act (8 U.S.C. 1182(n)) shall be used in accordance with the provisions of this section. From such amounts, the Secretary of Labor, in consultation with the Secretary of Commerce and the Secretary of Education, shall make competitive grants to eligible entities described in subsection (b), in order to enhance the capabilities of industries with significant skill needs to utilize the labor market in meeting their needs more effectively through--

(1) improving the job skills of American workers as necessary for employment in specific industries and occupations with significant skill needs;

(2) assessing and developing strategies to address significant skills needs at the local, State, regional, and national levels; and
(3) developing regional skills alliances to facilitate coordination of activities at the local, State, and regional levels in developing strategies to meet such needs.

(b) ELIGIBLE ENTITIES.

(1) IN GENERAL.-- For the purposes of this section, an eligible entity is a consortium that consists of, but is not limited to, two or more of the following:

- (A) employers;
- (B) labor organizations;
- (C) State or local governments;
- (D) private industry councils;
- (E) postsecondary educational institutions;
- (F) nonprofit organizations representing businesses or industries;

or

(G) nonprofit training organizations.

(2) ADDITIONAL REQUIREMENT.-- To the maximum extent practicable, each business, organization, or governmental unit that joins in forming an eligible entity under paragraph (1) shall be located in the same geographic region of the United States.

(c) GRANT LIMITATIONS.-- A grant may not be provided to any eligible entity under this section for more than two annual grant periods. Out of any grant made to an eligible entity, the portion to be used for creating, planning, and developing the alliance may not exceed \$750,000 for any such annual grant period.

(d) APPLICATION.-- The Secretary may provide a grant to an eligible entity under subsection (a) only pursuant to an application that is consistent with the provisions of this section and contains such information as the Secretary may deem reasonable.

(e) USE OF AMOUNTS.-- In making grants under subsection (a), the eligible entity may, to the extent that such activities build upon and supplement on-going activities and will not duplicate or supplant current activities, provide for:

(1) an identification of local, State, regional, and national skills needs;

(2) an assessment of the extent to which workers in the United States are being educated and trained in needed skills;

(3) the development of strategies to enhance the focus of training and education investments on industries with significant skill needs and rapidly expanding occupations;

(4) the provision of training or retraining for upgrading the skills of workers, including retraining incumbent workers for continued employment with an employer;

(5) the provision of improved occupational information and projections;

(6) an assessment of training and job skill needs for specific industries; and

(7) assistance in developing curriculum and training methods, and identification of and assistance in developing training providers.

(f) ADDITIONAL CRITERIA FOR GRANTS.-- In making grants under subsection (a), the Secretary shall provide that--

(1) a peer review process shall be utilized to recommend awards of grants;

(2) applications shall ensure that private industry councils and labor organizations in the areas to be served have collaborated in the development of such applications;

(3) preference be given to applications that demonstrate significant collaboration with major stakeholders in the State and local

workforce development systems;

(4) with respect to any application, any amount of Federal funds to be used for training or retraining activities for incumbent workers as described in subsection (e)(4) shall be matched by an equal amount from non-Federal sources to be used for such purpose; and

(5) preference be given to applications for grants, based on the extent to which non-Federal sources will provide amounts which match a portion of the Federal funds to be made available for the grant.

(g) NATIONAL ALLIANCE FOR HIGH-TECHNOLOGY SKILLS.--

(1) ESTABLISHMENT.-- In order to complement the program of grants under this section, including the activities of regional skills alliances, a National Alliance for High Technology Skills shall be established within six months after the enactment of this Act, consisting of individuals who are representative of private industry, organized labor, work-force development systems, education, and government at the local, State, and national levels.

(2) RECOMMENDATIONS AND REPORT.-- The National Alliance shall develop and recommend strategies for the training of American workers to meet future demands for high-technology skills. The National Alliance shall prepare and submit an interim report to the President and to the Congress, including its findings and recommendations, not later than February 1, 2001, and a final report not later than September 30, 2003.

(3) MEMBERSHIP.-- The Secretary of Labor, in consultation with the Secretary of Commerce and the Secretary of Education, shall establish procedures relating to the appointment of members, the conduct of meetings and public hearings, and the provision of staff assistance and support resources for the National Alliance.

(4) LIMITATION.-- Out of the amounts available for use under this section, not more than \$1,000,000 annually shall be available for carrying out the responsibilities of the Alliance under this subsection.

(h) DEFINITION.-- For purposes of this section:

(1) The term "Secretary" means the Secretary of Labor.

(2) The term "private industry council" means the entity described under section 102 of the Job Training Partnership Act, or similar entity under any successor Federal statute.

VIII. New Visa Category Proposal

A new program (H-1C) that creates temporary visas for use only by non-immigrants with very high skill levels. In particular:

The program would be authorized for four years beginning in FY1998.

There would be a maximum of 25,000 visas for FY1998, FY1999, and FY2000, and a maximum of 15,000 visas for FY2001.

Only employers whose number of H-1B and "H-1C" employees in the prior year constitutes no greater than one-half of their U.S. based workforce are eligible to apply.

Only individuals with a minimum of a master's degree (or equivalent degree) in math, science, or engineering; or a bachelor's degree in math, science, or engineering and five years of experience in the specialty occupation; or who will earn at least \$75,000 per year (exclusive of benefits) are eligible for an "H-1C" visa.

□□ Requires a \$500 fee for each position for which an application is filed for training, enforcement, and administration of the program.

□□ The □&H-1C□8 visas would be issued for a 3-year period, and renewable for an additional 3 years.

□□ All of the requirements of the □&H-1C□8 visa program would be the same as would exist under the reformed H-1B program.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jennifer L. Klein (CN=Jennifer L. Klein/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:27-APR-1998 13:03:36.00

SUBJECT: early childhood study

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

We have been working with Rand, but they did not want us involved in the release of the study because they were concerned it might seem political. We did plan to highlight the findings in some way.

----- Forwarded by Jennifer L. Klein/OPD/EOP on 04/27/98
12:41 PM -----

Bruce N. Reed
04/27/98 11:37:33 AM
Record Type: Record

To: Jennifer L. Klein/OPD/EOP
cc:
Subject: early childhood study

Did we do something with this study before?

----- Forwarded by Bruce N. Reed/OPD/EOP on 04/27/98
11:39 AM -----

Paul E. Begala
04/27/98 09:37:40 AM
Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP
cc:
Subject: early childhood study

Saturday's New York Times has an article by Tamar Lewin entitled "Early Aid is Shown to Benefit At-Risk Children". The story cites a RAND study that showed several positive results from nine early intervention programs studied, including higher long-term school achievement, less need for special ed, lower delinquency rates, fewer emergency room visits and less dependency on welfare.

There must be a way we can use this, or refer to this, or do an event around this. How can we use this to promote POTUS' agenda?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:27-APR-1998 12:19:10.00

SUBJECT: more

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:

Please send me back the revised set when its done.

Q. What does the Administration believe is the right way to reform bilingual education?

A. The right way is to strengthen our public schools overall and improve how our schools help Limited English Proficient (LEP) students learn English:

We can help LEP kids learn English and do well in academic subjects if we give them the same tools that other students need in order to succeed: higher standards, safe schools, smaller classes, well prepared teachers, and a challenging curriculum, and schools that are accountable for success. This is what the Administration is already trying to help schools in every state and community accomplish.

No one approach to educating LEP students works best all the time; we must give local schools the flexibility to fashion an approach that will work the best for their students.

We must provide LEP students with fully qualified bilingual and English-as-second-language teachers. LEP students will succeed if they are given well-prepared teachers who know how to teach reading and who are knowledgeable about second-language acquisition.

Local school districts must be accountable for performance and results. School districts should be accountable for helping students become proficient in English as rapidly as possible. They should measure progress regularly, report publicly on how well they are doing, and take corrective action if students are not making adequate progress.

If we do these things, we can expect students to meet a goal of becoming proficient in English within 3 years. This is a reasonable goal--many students can learn English faster than they do at present if we set clear expectations and give them the qualified teachers and the help they need. A goal is not a mandate or a one-year straight-jacket; if a student needs additional time, he or she should get it, along with the help and support to learn. But, setting a clear goal will help students and teachers alike. Like setting high standards, students can achieve more when they know we expect more of them.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:28-APR-1998 14:47:31.00

SUBJECT: Tobacco story

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

READ:UNKNOWN

TO: Cynthia Dailard (CN=Cynthia Dailard/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

----- Forwarded by Cynthia A. Rice/OPD/EOP on 04/28/98
02:47 PM -----

Toby Donenfeld @ OVP
04/28/98 02:29:47 PM
Record Type: Record

To: Laura Emmett/WHO/EOP, Cynthia A. Rice/OPD/EOP

cc:

Subject: The full story

Tobacco Investigation, 1st Add, a0632,250
WASHINGTON: tobacco products

Liggett also agreed to describe for prosecutors the control of research by the Council for Tobacco Research, including special projects conducted under the council's auspices, and the involvement of lawyers in directing research or crafting false or misleading statements by any of the tobacco companies to Congress, the Food & Drug Administration and American consumers.

The company agreed to help prosecutors obtain relevant evidence, including evidence of crimes and fraud contained in documents the tobacco companies continue to refuse to disclose on grounds of attorney-client or attorney-work product privileges.

In February, a source familiar with the investigation had said that Liggett was offering to make its scientists and other experts available to the government for use in its three-year-old investigation.

Among the allegations the department is probing is whether industry officials lied to Congress in 1996 when they testified to having no knowledge of nicotine's addictive qualities or adverse health affects from smoking and whether they submitted false data to the FDA.

Liggett, which is owned by Brooke Group Ltd. and markets L&M, Chesterfield, Eve and Lark cigarettes in the United States, broke with bigger companies last year in reaching an earlier settlement with 22 states that sued the industry to recover Medicaid funds spent on treating smokers.

It also was the first company to list ingredients on its

cigarette packs.
APNP-04-28-98 1427EDT

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Received by NewsEDGE/LAN: 4/28/98 2:27 PM

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:28-APR-1998 21:15:44.00

SUBJECT: Assaults Veto

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Rahm/Bruce/Elena:

Please disregard the assaults letter I sent. The word from Peter now is that OMB will do a general veto letter, include the attached line on assaults, and float it at the senior staff meeting tomorrow morning.

"The proposed language would potentially allow for as many as 600,000 modified Uzis, AK 47s and other assault-type rifles to be imported into the country."

Thanks,
Jose'

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:28-APR-1998 20:09:59.00

SUBJECT:

TO: ELENA (Pager) #KAGAN (ELENA (Pager) #KAGAN [UNKNOWN])

READ:UNKNOWN

TEXT:

I'm leaving your briefcase at the SW gate so you can pick up your keys,
etc. to get home; page me if problems -Laura

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Richard Socarides (CN=Richard Socarides/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:28-APR-1998 09:00:37.00

SUBJECT: State of Oregon to provide DP benefits

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

----- Forwarded by Richard Socarides/WHO/EOP on 04/28/98
09:00 AM -----

Doug.Case @ sdsu.edu

04/27/98 10:21:00 PM

Record Type: Record

To: Stuart D. Rosenstein, Richard Socarides

cc:

Subject: State of Oregon to provide DP benefits

Eugene Register-Guard, April 23, 1998

Eugene, OR

By TAD SHANNON

Domestic partners of state employees will be eligible for health benefits

starting June 1, a state panel has decided.

The unanimous vote Tuesday by the Public Employees' Benefit Board applies

to all of the state's approximately 45,000 employees. The decision adds Oregon

to a growing list of states, cities and private companies that have extended

benefits to cohabiting couples, whether they are gay or heterosexual but unmarried.

"It's great news," said Kelly Matchett-Morris, one of two gay UO employees

who filed separate lawsuits last year alleging that the university discriminated against them by denying health benefits to their partners.

"It's finally the right thing being done."

Matchett-Morris, associate director of residence life, said he and his partner probably will drop their lawsuit now. "We made a decision not to sue

for damages or lost wages," he said. "We really wanted the university to do the right thing, period."

The state's most prominent anti-gay rights organization, however, denounced

the board's decision as immoral.

"It reinforces what we've been concerned about for a long time," said Lon

Mabon, chairman of the Oregon Citizens Alliance, which has sponsored

several

statewide anti-gay rights initiatives. "The government shouldn't be in the business of sanctioning immoral sexual behavior."

The OCA is collecting signatures to place an initiative on the November ballot that Mabon said would prohibit the state from recognizing homosexual marriages and would ban extending benefits to unmarried couples. Mabon said the group has about half of the 97,000 signatures it needs by July.

The benefit board's decision sets in motion a policy that has been hotly debated for years in Oregon and around the country. The city of Eugene extended such benefits earlier this year, joining the Eugene Water & Electric Board, the city of Portland and Multnomah County.

In the private sector, such large Oregon employers as Sony Corp. in Springfield, Intel, Bank of America and Hewlett-Packard offer such coverage.

Nationwide, the states of New York and Vermont have adopted similar policies, along with an estimated 80 other government entities and a couple of hundred companies.

Supporters say it's only fair and makes good business sense in a competitive labor market.

"I see it as a good thing," said Linda King, UO director of human resources. "Anything that makes us a more attractive employer helps in recruitment and retention. It also seems more equitable for our employees."

King said she expects that fewer than 50 of the university's 3,100 employees will seek coverage for a domestic partner.

Mylia Wray, administrator of the Public Employees' Benefit Board, estimates

that 200 to 400 state employees will seek benefits. Based on the experience of employers nationwide, she said she expects an increase of no more than 1 percent of the \$180 million the state spends on benefits each year. Because the policy will take effect midyear, she expects this year's increase to be closer to \$400,000.

The board voted in January to extend benefits but made the decision contingent on the outcome of a lawsuit filed by three gay employees of Oregon

Health Sciences University. The case is before the Oregon Court of Appeals.

A Multnomah County Circuit Court judge ruled in 1996 that OHSU had to extend benefits because failing to do so would violate the Oregon Constitution. The state appealed, hoping to resolve who has the authority to

extend such benefits, among other issues.

The state attorney general's office advised the benefit board to hold off.

But now, the office thinks the court may not address the issue, so it gave the board a green light.

"We think the legal landscape has changed," said David Schuman, deputy attorney general. For one thing, action by the Legislature that took effect Jan. 1 merged two boards to create the Public Employees' Benefit Board and gave the new board more authority.

Although the policy appears to have been decided for now, debate probably won't die any time soon.

"For myself, it's not the direction I'd like to see us go," said Senate Majority Leader Gene Derfler, R-Salem.

It would be too easy for someone to abuse the rule, he said.

"If I were a person with an illness, I'd love to go find a domestic

partner," he said. "I don't think it's fair to the taxpayer."

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

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

TEXT:

RFC-822-headers:

Received: from conversion.pmdf.eop.gov by PMDF.EOP.GOV (PMDF V5.1-9 #29131)
id <01IWDQWGCUWG000GQM@PMDF.EOP.GOV>; Mon, 27 Apr 1998 23:21:24 EDT

Received: from Storm.EOP.GOV by PMDF.EOP.GOV (PMDF V5.1-9 #29131)
with ESMTTP id <01IWDQW9JG0W000I9X@PMDF.EOP.GOV>; Mon,
27 Apr 1998 23:21:15 -0400 (EDT)

Received: from mail.sdsu.edu ([130.191.25.1])
by STORM.EOP.GOV (PMDF V5.1-10 #22921)
with ESMTTP id <01IWDMQHDEN600072M@STORM.EOP.GOV>; Mon,
27 Apr 1998 21:22:02 -0400 (EDT)

Received: from [130.191.242.121] ([130.191.242.121])
by mail.sdsu.edu (8.8.7/8.8.7) with ESMTTP id SAA00566; Mon,
27 Apr 1998 18:21:07 -0700 (PDT)

X-Sender: dcase@mail.sdsu.edu

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:28-APR-1998 21:03:06.00

SUBJECT: H1B Legislation

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

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

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

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

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

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

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

CC: Cecilia E. Rouse (CN=Cecilia E. Rouse/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

Bruce/Elena/Gene/Sally:

We just received the House bill and spoke with Peter. Smith's bill includes strong reform language, but does not include a training piece. Though Smith is not adverse to training, he is getting beat up a lot by Rogan and Drier on the reforms, and doesn't want to further alienate them by including a training piece that looks like the creation of another federal training bureaucracy. Smith told Watt and Lofgren that if they can get some Republican support for training, he would include it. With training included, Watt will get on the bill. Lofgren is still a maybe. Lofgren proposed putting money from the fee into an existing program at Education (MESA) that provides math and science programs for middle school kids whose parents did not go to college. She expressed a preference for using any money generated to fund an existing program.

Peter told Smith that though his reforms seem to reflect a lot of what we would like, the bill would be unacceptable to us without training. Smith asked Peter very directly for our support.

Peter believes that we may be in a very good position. Our proposal could be seen as a compromise between Abraham and Smith. Lofgren was arguing our reform language tonight.

Peter recommends that we prepare a letter for the mark-up on Thursday. The letter would strongly support Smith's legislation insofar as it comports with one of our key principles -- strong reforms to the H1B

program coupled with a temporary increase in the cap. We would, however, also want to indicate that the bill needs to include a training piece and perhaps that his increase is high. Peter further recommends that this letter come from Bruce and Gene (= White House). Please advise.

Julie & Ceci

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cynthia Dailard (CN=Cynthia Dailard/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:28-APR-1998 10:44:04.00

SUBJECT: Judiciary Staff Briefing

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

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

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

TEXT:

The briefing for Senate Democratic Judiciary staff on smuggling is at 4:30 today in Dirksen 152. Gruber and Wolin will be there. Gary Genzler has also been invited.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:28-APR-1998 14:47:13.00

SUBJECT: Tobacco News

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

READ:UNKNOWN

TO: Cynthia Dailard (CN=Cynthia Dailard/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

----- Forwarded by Cynthia A. Rice/OPD/EOP on 04/28/98
02:47 PM -----

Toby Donenfeld @ OVP
04/28/98 02:24:30 PM
Record Type: Record

To: Lawrence J. Haas/OVP @ OVP, Cynthia A. Rice/OPD/EOP, Jerold R.
Mande/OSTP/EOP, Sarah A. Bianchi/OPD/EOP

cc:

Subject: Tobacco News

Tobacco Investigation,150
URGENT

industry

By MICHAEL J. SNIFFEN=
Associated Press Writer=

WASHINGTON (AP) Liggett & Myers Inc., smallest of the big five
cigarette-makers, agreed today to cooperate with the Justice
Department's criminal investigation of the tobacco industry.

The agreement, the first of its kind with a major tobacco
company, did not contain any grant of immunity from prosecution,
the department announced. Liggett had sought immunity in
discussions with prosecutors, officials had said.

The Durham, N.C., company and its parent, Liggett Group Inc. of
New York, agreed to provide complete and accurate information
about:

Industry knowledge of the health consequences of smoking
cigarettes and the addictive nature of nicotine.

Targeting of children and adolescents as customers.

Manipulation of nicotine levels in tobacco products.

MORE

APNP-04-28-98 1419EDT

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Received by NewsEDGE/LAN: 4/28/98 2:19 PM

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Jose Cerda III (CERDA_J) (WHO)

CREATION DATE/TIME:28-APR-1998 11:18:45.22

SUBJECT: COURT GIVES FEDERAL JUDGES INCREASED POWER IN DRUG ...

TO: Bruce N. Reed (REED_B) Autoforward to: Remote Addressee
READ:NOT READ

TO: Elena Kagan (KAGAN_E) Autoforward to: Remote Addressee
READ:NOT READ

TO: Jose Cerda III (CERDA_J) Autoforward to: Remote Addressee
READ:NOT READ

TEXT:

Date: 04/28/98 Time: 10:39

SCourt gives federal judges increased power in drug sentencing
WASHINGTON (AP) The Supreme Court today gave federal judges greater power to impose longer terms behind bars for some convicted drug traffickers, unanimously upholding the prison sentences given to five Illinois men.

Writing for the court, Justice Stephen G. Breyer said it does not matter that a federal jury did not make clear whether it found the men guilty of conspiring to distribute cocaine in its powder or "crack" form. The sentencing judge was free, Breyer said, to sentence the men as if they had been convicted of dealing in both illegal drugs.

Under federal sentencing guidelines, the punishment for crack-related crimes is much tougher than crimes linked to powder cocaine.

Vincent Edwards, Reynolds Wintersmith, Horace Joiner, Karl Fort and Joseph Tidwell were convicted in 1993 for their participation in a drug-selling conspiracy based in Rockwell, Ill.

The trial judge told jurors they could convict the men of violating a federal drug-conspiracy law if prosecutors proved they were involved with measurable amounts of powdered cocaine "or" crack cocaine.

After the jury found the men guilty of participating in an illegal conspiracy, the judge sentenced them based on his finding that the illegal conduct had involved both cocaine and crack.

Fort and Wintersmith were sentenced to life in prison. The other three received prison sentences ranging from 10 to 26 years, and a federal appeals court upheld all five sentences.

All five men appealed, contending that they were entitled to shorter sentences or even a new sentencing proceeding. But today's ruling rejected those arguments.

"The judge was authorized to determine for sentencing purposes whether crack, as well as cocaine, was involved," Breyer said, adding that the jury's belief about which drugs were involved was beside the point.

The case is Edwards vs. U.S., 96-8732.

APNP-04-28-98 1039EDT

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cynthia Dailard (CN=Cynthia Dailard/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:28-APR-1998 17:54:19.00

SUBJECT: ENACT meeting

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:

HHS wants to know if there will be any press stake-out following the ENACT meeting. I said I didn't know of any intention to do so, but that I would check. Should I let them know differently?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:28-APR-1998 13:16:33.00

SUBJECT: Olympics

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

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

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

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

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

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

TEXT:

This sounds like a good idea to me -- congratulating IOC/OSOC for their
action - positive way to make an antidrug, pro-healthy young statement
--what do you think ?

----- Forwarded by Ann F. Lewis/WHO/EOP on 04/28/98 01:06
PM -----

Robert F. Housman
04/28/98 11:32:17 AM

Record Type: Record

To: Ann F. Lewis/WHO/EOP
cc:
Subject: Olympics

Olympics and Drugs

The Executive Board of the IOC announced today a ban on marijuana and other non performance enhancing or social drugs.

This is a huge step forward that will not only impact the Olympics, but also the entire world of amateur international sport (which typically adopts the Olympic rules).

We should make a strong statement in support of this effort of the IOC and the USOC, which has been a true leader in making this happen.

The President's meet with/remarks to provide the perfect opportunity to do so -- hitting strong on the values embody by sport, ensuring that no medal gold or other is tarnished by drugs.

Note

The athlete who had the marijuana incident is a Canadian; he is not invited tomorrow. I have checked the lists to be certain of this.

Automated Records Management System
Hex-Dump Conversion

Olympics and Drugs

- The Executive Board of the IOC announced today a ban on marijuana and other non performance enhancing or social drugs.
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Note

- *The athlete who had the marijuana incident is a Canadian; he is not invited tomorrow. I have checked the lists to be certain of this.*

Double Bonus

- This would be a big blow to Gingrich who has hauled out the Olympics as part of his bash the President on drugs event -- a total thunder steal.

Option

- ONDCP has a new Athletics Initiative that could also be announced -- "working with the leagues, coaches, soccer moms and Dads, and most importantly kids to use athletics to build values and send the right message to kids about drugs: Users are losers. Be a winner."

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:28-APR-1998 15:07:46.00

SUBJECT: Call Cynthia ASAP re: Hatch and Treasury testifying discussions. 456-2846

TO: ELENA (Pager) #KAGAN (ELENA (Pager) #KAGAN [UNKNOWN])

READ:UNKNOWN

TEXT:

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Mickey Ibarra (CN=Mickey Ibarra/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:28-APR-1998 08:46:04.00

SUBJECT: Bilingual

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

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

TEXT:

I completed convesations with Speaker Villaraigosa, Mayor Serna, Supervisor Molina, Arturo Vargas (NALEO) and Richie Ross. In addition, we completed heads-up calls and faxed Riley's statement to the IGA list of local and state electeds I shared with you. The reaction of the leaders I spoke to yesterday was universally positive both to the message and the timing. I think the news reports are what we wanted today as well.

67