

NLWJC - KAGAN

EMAILS RECEIVED

ARMS - BOX 032 - FOLDER -010

[06/18/1998] [1]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-JUN-1998 14:45:23.00

SUBJECT: S. 1415, with technicals

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

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

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

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

TEXT:

fyi -- when I got this, I sent him a note back asking if he was planning to include the amendments adopted in committee. Would we want him to prepare both -- managers package and managers package with amendments?
----- Forwarded by Cynthia A. Rice/OPD/EOP on 06/18/98
02:43 PM -----

Lloyd_Ator @ commerce.senate.gov (Lloyd Ator)
06/18/98 02:17:35 PM

Record Type: Record

To: Lance_Bultena @ commerce.senate.gov (Lance Bultena) , James_Drewry @ commerce.senate.gov (James Drewry) , Cynthia A. Rice/OPD/EOP, Joshua Gotbaum/OMB/EOP

cc:

Subject: S. 1415, with technicals

I am going to create a new file that will take the Committee substitute (except for title XV) and plug in all the technicals so we'll have a clean electronic version if anyone wants to use all or part of it as an amendment to other legislation.

This will take a couple of days.

If you want a copy, electronic or hard, let me know.

DRAFT

Statement of the President

Today's PRIDE survey shows that American families can impact adolescents' attitudes and behaviors when it comes to drugs. This is a small step in the right direction. But we must all continue to warn our youth that drugs are wrong; that drugs are dangerous; and that drugs can kill you. That is why in the coming months, we will take our anti-drug media campaign nationwide, fund more community anti-drug coalitions, and work to enact our long-term drug strategy. These and other steps will help us to reach our ultimate goal -- cutting teen drug use in half.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-JUN-1998 19:40:43.00

SUBJECT: INS reform

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

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

READ:UNKNOWN

TO: Steven M. Mertens (CN=Steven M. Mertens/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

CC: Leslie Bernstein (CN=Leslie Bernstein/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

Julie Anbender from INS sent me a copy of the new Reyes legislation. According to Michael Meyers (Kennedy's counsel) Smith intends to mark this up on Tuesday. Also, Rogers has indicated to Smith that he endorses the Reyes proposal. Rogers will likely take the subcommittee's product as an expression of what the authorizers want and start crafting his appropriations bill pursuant to it. This is sure to upset Abraham, who has indicated his intention to control the reform process (and has already held his first hearing).

This bill effects the same kind of change that was outlined in Reyes's earlier version -- pulling the enforcement components of the agency (including inspectors) out of INS and into Main Justice, headed by a Bureau Director (a la FBI and DEA). The bill does not mention the Services side of the operation, but does direct the AG to put mechanisms in place to coordinate between the Bureau of Enforcement and the INS.

I have put in a call to the subcommittee's minority staff person (Tina Hone) and will try to find out more about what our options are.

Julie

**PRESIDENT ANNOUNCES HISTORIC PROSTATE CANCER RESEARCH GRANTS AT THE
DEPARTMENT OF DEFENSE AND
HIGHLIGHTS THE ADMINISTRATION'S AMBITIOUS AGENDA TO FIGHT
PROSTATE CANCER**

June 19, 1998

Today, in his Father's day radio address, the President announced the release of \$60 million at the Department of Defense for prostate cancer research. These largest-ever grants will be awarded by DoD to promising researchers making important contributions to the diagnosis and treatment of prostate cancer.

These efforts will complement exciting developments in prostate cancer research at the National Institutes of Health (NIH). This year over 180,000 men are expected to be diagnosed with prostate cancer, accounting for 30 percent of cancer in men, and nearly 40,000 men are projected to die from this disease (virtually the same number of women who die from breast cancer). The President also renewed his call on Congress to pass his budget proposals for historic, multi-year increases in cancer research at NIH and coverage of cancer clinical trials for Medicare beneficiaries. These proposals complement the President's strong record in the war against cancer. Highlights of the President's ambitious prostate cancer agenda include:

- ◆ **Releasing the Largest-Ever Grants at the Department of Defense (DoD) for Prostate Cancer Research.** The President announced that approximately \$22 million in grants for prostate cancer are being awarded today and another \$37 million will be announced in the next month. Before awarding these grants, the DoD conducted a multi-month consultative process with prostate cancer experts, patients, and advocates to find the best ways to fund and encourage top-of-the-line research and received over 600 grant proposals. The President also announced that DoD is posting the recipients of these new grants on the Internet. This new prostate cancer research program builds on the widely-acclaimed peer-review breast cancer research program at DoD.

- ◆ **Proposing Unprecedented Multi-year Increases in Cancer Research at the National Institutes of Health.** The President's budget includes a historic 65 percent increase in cancer research at NIH over the next five years. Since the President took office, research in prostate cancer at the NIH has increased by 100 percent to \$122 million in FY1999. This year alone there are 450 research projects at the National Cancer Institute (NCI) on prostate cancer, including prevention research studying the environmental, dietary and other influences on this disease; and research to develop more effective interventions and design more effective screening techniques. There is also new genetic research in this area, as scientists recently located the first gene that predisposes men to prostate cancer. Also, prostate cancer was the first cancer studied as part of NCI's recently launched Cancer Genome Anatomy Project, which resulted in the discovery of dozens of new genes that may be associated with the development of prostate cancer. NCI will support many times that amount to other cancer, human genome, and other biomedical research that will help expand our base of knowledge about the diagnosis and treatment of prostate and other cancer.

- ◆ **Supporting Coverage for Cancer Clinical Trials for Medicare beneficiaries.** The President's budget includes a three-year, \$750 million demonstration to cover Medicare beneficiaries' patient care costs associated with certain Federally-sponsored cancer clinical trials. Medicare currently does not cover cancer clinical trials. This proposal is particularly important for prostate cancer patients because: most of men with prostate cancer are Medicare beneficiaries, as fully 80 percent of those diagnosed with this disease are over age 65; the lack of participation of elderly men in trials has undermined clinical research for the treatment, prevention, and screening for this disease; and given promising new findings in research, NCI expects there may be an increase in clinical trials for prostate cancer, creating a need for even more participants.
- ◆ **Proposing \$25 Million to Raise Awareness About Prostate Cancer Prevention, Treatment, Screening for Minorities.** African-American men have an incidence rate over 30 percent higher than white men and a mortality rate over 50 percent for prostate cancer. The President's race and health initiative includes \$25 million over the next five years at the Center for Disease Control to promote awareness about who is at risk for prostate cancer, current screening options, and the best treatment options for those who are diagnosed with this disease. This investment, in addition to clinical trials underway at the NIH, will also help determine why there is such variation in the prevalence and mortality of prostate cancer.

These Proposals Build on the President's Strong Record in the War Against Cancer Including:

- **Advocating for a Federally-Enforceable Patients' Bill of Rights.** The President has called on Congress to pass Federally enforceable consumer health care protections before it adjourns this fall. This patients' bill of rights contain a range of protections that are particularly important to people with cancer, including guaranteed access to needed health care specialists, continuity of care if a health provider is dropped in the middle of treatment, and access to a meaningful **internal and external appeals process for consumers to resolve their differences with their health plans and health care providers.** The nation's health care system has changed dramatically, with 160 million Americans now in managed care plans. **This legislation will ensure that whether Americans have traditional health insurance or managed care, they are assured quality care.**
- **Pushing for Legislation Preventing Health Insurers and Employers from Discriminating on the Basis of Genetic Discrimination.** Scientists recently discovered the first gene related to prostate cancer and more progress in understanding the genetic basis of this disease is expected in the near future. However, progress in genetics has the potential to be undermined by fear of genetic discrimination. One study showed that 63 percent of Americans would not take a genetic test if their health insurers or employers could get access to the results. **To ensure that new advances in genetics are used to improve health rather than to discriminate against individuals, the President has called for legislation prohibiting the use of genetic screening to discriminate in health insurance and employment.**
- **Enacted New Prostate Cancer Screening Benefit for Medicare Beneficiaries.** As part of the historic Medicare reforms in the Balanced Budget Act of 1997, the President signed into law a series of new preventive benefits for Medicare beneficiaries, including coverage of prostate cancer screening. Starting in 2000, Medicare will cover prostate cancer screening.

DRAFT

Statement of the President

Today's survey released by PRIDE is the third study since last summer indicating that younger students are getting the message on the dangers of drugs. While this news is encouraging, we must not let up the fight to protect our children from drugs. That is why in the coming months, we will take our anti-drug media campaign nationwide, fund more community anti-drug coalitions and work to enact our long-term drug strategy. And we will do everything else we can to reach our ultimate goal -- cutting teen drug use in half.

DRAFT: 6-18-98

Automated Records Management System
Hex-Dump Conversion

June 18, 1998

Honorable Trent Lott
Majority Leader
United States Senate
Washington, D.C. 20510-6125

Dear Senator Lott:

As you know, there have been some recent tragedies across the country that involve hate crimes. Last week a man in Jasper, Texas, was dragged behind a pickup truck, dismembered and killed. While this tragic event serves to focus America's attention on the problem, every week scores of our fellow citizens are subjected to violence on account of **their race, color, national origin, religion, sexual orientation, gender, or disability.**

In America we hear too many stories like the 13-year-old African American boy nearly beaten to death when he rode his bicycle through the wrong neighborhood, the gay American murdered as he walked home from work, the Asian American who lost her store to a firebomb hurled by a racist, the Jewish American whose house of worship was desecrated by swastikas.

We hear too many of these stories -- stories of violent acts which are not just despicable acts of bias and bigotry, they are crimes. They strike at the heart of what it means to be an American. They are the antithesis of the values that define us as a nation. They have nothing to do with freedom or equality or respect for differences of opinion, and most importantly, they prevent us from respecting one another. I believe -- and I hope you will agree -- that now is the time for us to unite as Americans and take strong and decisive action to fight these hate crimes and to stop intolerance.

I am thus writing you today to restate my deeply-held belief that the Senate must act quickly this year to pass S. 1529, the "Hate Crimes Prevention Act of 1998." This crucial legislation, sponsored by Senators Specter and Kennedy, would expand the ability of the Justice Department to prosecute hate crimes by removing needless jurisdictional requirements for existing crimes and by giving federal prosecutors for the first time the power to prosecute hate crimes committed on account of a bias against a person's sexual orientation, gender or disability.

Mr. Majority Leader, there is no problem more important to the future of this country than attacking the divisive issue of intolerance, prejudice and violent bigotry. This legislation will lead the way in making sure people from all walks of life feel more safe and secure in our country, whatever their race, color, national origin, religion, sexual orientation, gender, or disability. I look forward to working with you in a bipartisan

fashion to get this important piece of legislation passed expeditiously and signed into law.

Sincerely,

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Stephen G. Elmore (CN=Stephen G. Elmore/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:18-JUN-1998 16:55:50.00

SUBJECT: Yesterday's Mark-up of S2176: Federal Vacancies Reform Act of 1998

TO: US@2=TELEMAIL@5=JMD@7=Deborah@6=Clifton@mrx@lngtwy (1=US@2=TELEMAIL@5=JMD@7=Deb
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TEXT:
THIS LRM IS PROVIDED ONLY FOR YOUR INFORMATION. YOU DO NOT NEED TO
PROVIDE COMMENTS TO OMB/LRD.

You will not receive a paper copy of this LRM.

LRM ID: SGE141
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Thursday, June 18, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

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

OMB CONTACT: Stephen G. Elmore
PHONE: (202)395-3924 FAX: (202)395-6148

SUBJECT: Yesterday's Mark-up of S2176: Federal Vacancies Reform Act of 1998

DEADLINE: NOT APPLICABLE

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: **FOR YOUR INFORMATION**

Attached is the Federal Vacancies Reform Act of 1998, as introduced by Sen. Thompson (R-TN) on Tuesday, along with Thompson's and Thurmond's statements of introduction from the 06/16/98 Congressional Record. We understand that the Senate Governmental Affairs Committee adopted the following amendments (not included in the attached bill text) yesterday:

- 1. Levin (D-MI) amendment to extend the time a new administration could take to submit nominations from 180 (as introduced) to 240 days (approved by voice vote). Under current law, a new administration has 120 days to

submit nominations for vacant positions from the day the new president is sworn in.

2. Glenn (D-OH) and Levin (D-MI) technical amendments -- as yet unknown -- also were approved by voice vote.

DISTRIBUTION LIST

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92-Office of Personnel Management - Harry Wolf - (202) 606-1424

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Excerpt from Congressional Record, 06/16/98, beginning pg. S6413
(Scroll down for bill text prior to yesterday's mark-up.):

By Mr. THOMPSON (for himself, Mr. Byrd, Mr. Thurmond, Mr. Lott, and Mr. Roth):

S. 2176. A bill to amend sections 3345 through 3349 of title 5, United States Code (commonly referred to as the 'Vacancies Act' to clarify statutory requirements relating to vacancies in and appointments to certain Federal offices, and for other purposes; to the Committee on Governmental Affairs.

FEDERAL VACANCIES REFORM ACT OF 1998

Mr. THOMPSON.

Mr. President, on behalf of myself and a bipartisan group of senators, I introduce today the Federal Vacancies Reform Act of 1998. This legislation is needed to preserve one of the Senate's most important powers: the duty to advise and consent on presidential nominees.

The Framers of the Constitution established a procedure for the appointment of all government officers: they were to be nominated by the President and confirmed by the Senate, unless Congress decided that the appointment of specified inferior officers was to be made by the President alone, the courts, or by department heads. The First Congress, however, recognized that vacancies would arise in executive positions, and enacted legislation providing for officials to temporarily exercise the powers of an office even without Senate confirmation. The law was adopted essentially in its current form in 1868, and was last amended in 1988. As amended, the first assistant or another Senate-confirmed individual can serve for 120 days after the vacancy, and, in addition, may serve beyond those 120 days if the President submits a nomination for that office to the Senate within those 120 days.

Unfortunately, the Vacancies Act is honored more in the breach than in the observance. For the past 25 years, administrations of both parties have claimed that the Justice Department is exempt from the Vacancies Act. And since the Reagan Administration, other departments, at the behest of the Justice Department, make the same argument, purportedly based on the authority of the heads of each of the executive departments to delegate their authority to other department personnel. Following this argument to its logical end, none of the departments is bound by the Vacancies Act, so that the act is a dead letter.

Certainly, this Administration has conducted itself as if the Vacancies Act applies to none of the departments. Each department has at least one temporary officer who has served more than 120 days before any nomination was sent to the Senate. Of the 320 executive department advise and consent positions, 64 are held by temporary officials. Of the 64, 43 have served longer than 120 days before any nomination was submitted to the Congress. The Commerce Department is the worst offender in number and in degree. For instance, the acting head of the Census Bureau is neither the first assistant nor a person who has been confirmed by the Senate, a mind-boggling violation of the law. Nor has a nomination been made, although the prior Census chief announced her departure more than five months ago.

The government's important functions should be carried out by permanent officials. That means that the President must submit nominations and the Senate needs to provide its advice and consent. This administration seems not to want to subject its appointees to such scrutiny. Acting on that desire is unconstitutional and a violation of the Vacancies Act as well. The Appointments Clause is not a

technical nicety. As the Supreme Court has stated, the Appointments Clause is designed to keep the Executive and Legislative Branches within their appropriate spheres, so as to better preserve individual liberty.

The Governmental Affairs Committee recently held an oversight hearing on the Vacancies Act. In that hearing, it became apparent that the Administration was regularly acting in violation of the law, but faced no consequence for its actions. The Committee also heard testimony from Senators Byrd and Thurmond, who had each introduced bills designed to ensure compliance with the Vacancies Act through clarifying the scope of agencies covered and providing an enforcement mechanism. Our colleagues owe a debt of gratitude to Senators Byrd and Thurmond for raising these important issues and offering solutions to address them.

I have found the approaches in the Byrd and Thurmond bills to have contributed importantly to the drafting of the legislation I introduce today. It is extremely important to ensure that the Vacancy Act period run from the date of the vacancy, to clarify that it covers all departments, and to impose a sanction for noncompliance. Subsequent to the introduction of the Byrd and Thurmond bills, the United States Court of Appeals for the District of Columbia Circuit issued a decision on the meaning of the Vacancies Act, approving the four year service of an acting head of the Office of Thrift Supervision as appointed by the departing head of the agency. Overruling several portions of that decision have become a priority.

The legislation I introduce today provides that in the event of a vacancy in a position in an executive agency requiring the advice and consent of the Senate, the officer's first assistant is allowed to perform the functions and duties of the office on an acting basis, for up to 150 days. Under current law, the period is 120 days, but the vicissitudes of the modern vetting process appear to require that the time be lengthened, to my regret. Alternatively, the President may direct another person who has already received Senate confirmation to serve as the acting official for 150 days. To prevent these restrictions from being gamed, the bill provides that the acting officer must have been the first assistant for 180 of the 365 days preceding the vacancy.

The length of temporary service can be extended beyond the 150 days if the President submits a nomination to the Senate for the vacant position. If the nomination is withdrawn, or if the Senate rejects or returns it, the acting official can serve only for 150 days after that event.

The bill makes clear that the Vacancies Act applies to all offices in

executive agencies for which appointment is required to be made by the President by and with the advice and consent of

the President. Nonetheless, we do not write on a clean slate. There are a number of laws already on the books that provide a process by which persons can serve as acting officers when particular offices are vacant. In most instances, these officials can serve until a successor is confirmed, without regard to the Vacancies Act. The bill preserves those specific statutes, but, to clearly reject the position of the Justice Department, it expressly repudiates the contention that a law authorizing the head of a department to delegate or reassign duties among other officers is a statute that provides for the temporary filling of a specific office. For the future, Congress will have to expressly provide that it is superseding the Vacancies Act if it wishes to override the Vacancies Act as to the temporary filling of advise and consent provisions.

The bill also establishes a second enforcement mechanism. If a nominee is not submitted to the Senate within 150 days of the vacancy, then the office is vacant until a nominee is submitted. While the routine functions of the office would be allowed to continue, those functions and duties that are specified to be performed by that official could only be performed by the head of the department. In fact, no specified duty of the officeholder that existed by regulation for the 180 days preceding the vacancy could be diminished in an effort to avoid the bill's vacant office provisions. However, if the President submits a nomination at any point after the 150 days, the acting officer would again be allowed to serve while the nomination was pending in the Senate, until confirmation, or until 150 days after the rejection, withdrawal, or return of the nomination. Actions taken by any acting official in violation of these provisions would be of no effect, and no one would be permitted to ratify the actions of the acting official that were taken in violation of the vacant office provisions.

Enforcement is further enhanced by requiring each executive agency to report to the Comptroller General the existence of vacancies, the names of persons serving as acting officers and when such service began, the name of any nominee and when such nomination was submitted to the Senate, and the final disposition of the nomination. The Comptroller General will then notify the Congress, the President, and the Office of Personnel Management when the 150 day limitations have been reached.

Mr. President, the Framers established a system for appointing important officials in which the President and the Senate would each play a role. Not only did the Framers wish to ensure that more

than one person's wisdom was brought to the appointment process, but that the President, in selecting nominees, would be aware that they would face scrutiny. When a vacancy occurs in such an office, it is important to establish a process that permits the routine operation of the government to continue, but that will not allow the evasion of the Senate's constitutional authority to advise and consent to nominations. I am pleased that a number of my colleagues are joining with me to formulate a structure that will achieve these ends. I look forward to the Senate's passage of this legislation in the near future.

I ask unanimous consent that the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

[Page: S6414]

S. 2176

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 'Federal Vacancies Reform Act of 1998'.

SEC. 2. FEDERAL VACANCIES AND APPOINTMENTS.

(a) In General: Chapter 33 of title 5, United States Code, is amended by striking sections 3345 through 3349 and inserting the following:

^3345. Acting officer

^(a) If an officer of an Executive agency (including the Executive Office of the President, and other than the General Accounting Office) whose appointment to office is required to be made by the President, by and with the advice and consent of the Senate, dies, resigns, or is otherwise unable to perform the functions and duties of the office--

^(1) the first assistant of such officer shall perform the functions and duties of the office temporarily in an acting capacity, subject to the time limitations of section 3346; or

^(2) notwithstanding paragraph (1), the President (and only the President) may direct a person who serves in an office for which appointment is required to be made by the President, by and with the advice and consent of the Senate, to perform the functions and duties of the office temporarily in an acting capacity, subject to the time limitations of section 3346.

^(b) Notwithstanding section 3346(a)(2), a person may not serve as an acting officer for an office under this section, if--

^(1) on the date of the death, resignation, or beginning of inability to

serve of the applicable officer,
such person serves in the position of first assistant to such officer;

^(2) during the 365-day period preceding such date, such person served in the position of first assistant to such officer for less than 180 days; and

^(3) the President submits a nomination of such person to the Senate for appointment to such office.

^(c) With respect to the office of the Attorney General of the United States, the provisions of section 508 of title 28 shall be applicable.

[Page: S6415]

^3346. Time limitation

^(a) The person serving as an acting officer as described under section 3345 may serve in the office--

^(1) for no longer than 150 days beginning on the date the vacancy occurs; or

^(2) subject to subsection (b), once a first or second nomination for the office is submitted to the Senate, for the period that the nomination is pending in the Senate.

^(b) (1) If the first nomination for the office is rejected by the Senate, withdrawn, or returned to the President by the Senate, the person may continue to serve as the acting officer for no more than 150 days after the date of such rejection, withdrawal, or return.

^(2) If a second nomination for the office (of a different person than first nominated in the case of a rejection or withdrawal) is submitted to the Senate during the 150-day period after the rejection, withdrawal, or return of the first nomination, the person serving as the acting officer may continue to serve--

^(A) until the second nomination is confirmed; or

^(B) for no more than 150 days after the second nomination is rejected, withdrawn, or returned.

^(c) If a person begins serving as an acting officer during an adjournment of the Congress sine die, the 150-day period under subsection (a) shall begin on the date that the Senate first reconvenes.

^3347. Application

^(a) Sections 3345 and 3346 are applicable to any office of an Executive agency (including the Executive Office of the President, and other than the General Accounting Office) for which appointment is required to be made by the President, by and with the advice and consent of the Senate, unless--

^(1) another statutory provision expressly provides that such provision supersedes sections 3345 and 3346;

^(2) a statutory provision in effect on the date of enactment of the Federal Vacancies Reform Act of 1998 expressly authorizes the President, or the head of an Executive department, to designate an officer to perform the functions and duties of a specified office temporarily in an acting capacity; or

^(3) the President makes an appointment to fill a vacancy in such office during the recess of the Senate pursuant to clause 3 of section 2 of article II of the United States Constitution.

^(b) Any statutory provision providing general authority to the head of an Executive agency (including the Executive Office of the President, and other than the General Accounting Office) to delegate duties to, or to reassign duties among, officers or employees of such Executive agency, is not a statutory provision to which subsection (a) (2) applies.

^3348. Vacant office

^(a) In this section--

^(1) the term 'action' includes any agency action as defined under section 551(13); and

^(2) the term 'function or duty' means any function or duty of the applicable office that--

^(A) (i) is established by statute; and

^(ii) is required by statute to be performed by the applicable officer (and only that officer); or

^(B) (i) (I) is established by regulation; and

^(II) is required by such regulation to be performed by the applicable officer (and only that officer); and

^(ii) includes a function or duty to which clause (i) (I) and (II) applies, and the applicable regulation is in effect at any time during the 180-day period preceding the date on which the vacancy occurs, notwithstanding any regulation that--

^(I) is issued on or after the date occurring 180 days before the date on which the vacancy occurs; and

^(II) limits any function or duty required to be performed by the applicable officer (and only that officer).

^(b) Subject to section 3347 and subsection (c)--

^(1) if the President does not submit a first nomination to the Senate to fill a vacant office within 150 days after the date on which a vacancy occurs--

^(A) the office shall remain vacant until the President submits a first nomination to the Senate; and

`(B) in the case of an office other than the office of the head of an Executive agency (including the Executive Office of the President, and other than the General Accounting Office), only the head of such Executive agency may perform any function or duty of such office, until a nomination is made in accordance with subparagraph (A);

`(2) if the President does not submit a second nomination to the Senate within 150 days after the date of the rejection, withdrawal, or return of the first nomination--

`(A) the office shall remain vacant until the President submits a second nomination to the Senate; and

`(B) in the case of an office other than the office of the head of an Executive agency (including the Executive Office of the President, and other than the General Accounting Office), only the head of such Executive agency may perform any function or duty of such office, until a nomination is made in accordance with subparagraph (A); and

`(3) if an office is vacant after 150 days after the rejection, withdrawal, or return of the second nomination--

`(A) the office shall remain vacant until a person is appointed by the President, by and with the advice and consent of the Senate; and

`(B) in the case of an office other than the office of the head of an Executive agency (including the Executive Office of the President, and other than the General Accounting Office), only the head of such Executive agency may perform any function or duty of such office, until an appointment is made in accordance with subparagraph (A).

`(c) If the last day of any 150-day period under subsection (b) is a day on which the Senate is not in session, the first day the Senate is next in session and receiving nominations shall be deemed to be the last day of such period.

`(d) (1) Except as provided under paragraphs (1)(B), (2)(B), and (3)(B) of subsection (b), an action shall have no force or effect if such action--

`(A) (i) is taken by any person who fills a vacancy in violation of subsection (b); and

`(ii) is the performance of a function or duty of such vacant office; or

`(B) (i) is taken by a person who is not filling a vacant office; and

`(ii) is the performance of a function or duty of such vacant office.

`(2) An action that has no force or effect under paragraph (1) may not be ratified.

`(d) This section shall not apply to--

- ^(1) the General Counsel of the National Labor Relations Board;
- ^(2) the General Counsel of the Federal Labor Relations Authority; or
- ^(3) any Inspector General appointed by the President, by and with the advice and consent of the Senate.

^3349. Reporting of vacancies

^(a) The head of each Executive agency (including the Executive Office of the President, and other than the General Accounting Office) shall submit to the Comptroller General of the United States and to each House of Congress--

^(1) notification of a vacancy and the date such vacancy occurred immediately upon the occurrence of the vacancy;

^(2) the name of any person serving in an acting capacity and the date such service began immediately upon the designation;

^(3) the name of any person nominated to the Senate to fill the vacancy and the date such nomination is submitted immediately upon the submission of the nomination; and

^(4) the date of a rejection, withdrawal, or return of any nomination immediately upon such rejection, withdrawal, or return.

^(b) If the Comptroller General of the United States makes a determination that an officer is serving longer than the 150-day period including the applicable exceptions to such period under section 3346, the Comptroller General shall report such determination to--

^(1) the Committee on Governmental Affairs of the Senate;

^(2) the Committee on Government Reform and Oversight of the House of Representatives;

^(3) the Committees on Appropriations of the Senate and House of Representatives;

^(4) the appropriate committees of jurisdiction of the Senate and House of Representatives;

^(5) the President; and

^(6) the Office of Personnel Management.

^3349a. Presidential inaugural transitions

^(a) In this section, the term 'transitional inauguration day' means the date on which any person swears or affirms the oath of office as President, if such person is not the President on the date preceding the date of swearing or affirming such oath of office.

^(b) With respect to any vacancy that exists during the 60-day period beginning on a transitional inauguration day, the 150-day period under section 3346 or 3348 shall be

deemed to--

`(1) begin on the later of--

`(A) the date following such transitional inauguration day; or

`(B) the date the vacancy occurs; and

`(2) be a period of 180 days.

`3349b. Holdover provisions relating to certain independent establishments

`With respect to any independent establishment for which a single officer is the head of the

establishment, sections 3345 through 3349a shall not be construed to affect any statute that

authorizes a person to continue to serve in any office--

`(1) after the expiration of the term for which such person is appointed; and

`(2) until a successor is appointed or a specified period of time has expired.

`3349c. Exclusion of certain officers

`Sections 3345 through 3349b shall not apply to--

`(1) any member who is appointed by the President, by and with the advice and consent of the Senate to any board, commission, or similar entity that--

`(A) is composed of multiple members; and

`(B) governs an independent establishment or Government corporation; or

`(2) any commissioner of the Federal Energy Regulatory Commission.'.

(b) Technical and Conforming Amendment:

(1) Table of sections: The table of sections for chapter 33 of title 5, United States Code, is amended by striking the matter relating to subchapter III and inserting the following:

`SUBCHAPTER III--DETAILS, VACANCIES, AND APPOINTMENTS

`3341. Details; within Executive or military departments.

`[3342. Repealed.]

`3343. Details; to international organizations.

`3344. Details; administrative law judges.

`3345. Acting officer.

`3346. Time limitation.

`3347. Application.

`3348. Vacant office.

`3349. Reporting of vacancies.

`3349a. Presidential inaugural transitions.

`3349b. Holdover provisions relating to certain independent establishments.

`3349c. Exclusion of certain officers.'.

(2) Subchapter heading: The subchapter heading for subchapter III of chapter 33 of title 5, United States Code, is amended to read as follows:

[Page: S6416]

`SUBCHAPTER III--DETAILS, VACANCIES, AND APPOINTMENTS'.

SEC. 3. EFFECTIVE DATE AND APPLICATION.

(a) Effective Date: This Act and the amendments made by this Act shall take effect on the date of enactment of this Act.

(b) Application: This Act shall apply to any office that--

(1) becomes vacant after the date of enactment of this Act; or

(2) is vacant on such date, except sections 3345 through 3349 of title 5, United States Code (as amended by this Act), shall apply as though such office first became vacant on such date.

--

--

Mr. THURMOND. Mr. President, I rise today as an original cosponsor of the Federal Vacancies Reform Act. This legislation is essential to help preserve and strengthen the advice and consent role of the Senate as mandated in the Constitution.

One of the greatest fears of the Founders was the accumulation of too much power in one source, and the separation of powers among the three branches of Government is one of the keys to the success of our great democratic government. An excellent example of the separation of powers is the requirement in Article II, Section 2 of the Constitution that the President receive the advice and consent of the Senate for the appointment of officers of the United States. As Chief Justice Rehnquist wrote for the Supreme Court a few years ago, 'The Clause is a bulwark against one branch aggrandizing its power at the expense of another branch.'

The Vacancies Act is central to the Appointments Clause because it places limits on the amount of time that the President can appoint someone to an advice and consent position in an acting capacity

without sending a nomination to the Senate. However, for many years, the executive branch has failed to comply with the letter of the law. The Vacancies Act has no method of enforcement, so the executive branch just ignores it. When confronted with the act, the Attorney General makes very weak legal arrangements about its inapplicability: This is what the Attorney General did over one year ago when I raised the Vacancies Act at an oversight hearing. At the time, almost all of the top positions at the Justice Department were being filled in an acting capacity. I exchanged letters with her about the Vacancies Act, and detailed the fallacy in her argument. It was to no avail.

I became convinced that legislation to rewrite the vacancies law and provide some remedy for violating it was the only way to get the executive branch to properly respect the advice and consent role of the Senate. Senator Lott and I introduced legislation earlier this year, and I testified about it before the Governmental Affairs Committee.

I detailed for the Committee some prominent examples of how the Act was being ignored. President Clinton allowed the Criminal Division of the Justice Department to languish for over two and one half years before making an appointment. The Government had an Acting Solicitor General for an entire term of the Supreme Court. Most recently, the President installed an Acting Chief of the Civil Rights Division in blatant disregard of the Judiciary Committee's decision not to support his controversial choice.

However, let me be clear. This bill is not about any one President or any one nominee. It is about preserving the institutional role of the Senate. A Republican President has no more right to ignore the appointments process than a Democrat President.

Today, Senator Thompson, Senator Byrd, Senator Lot, and I are introducing a bipartisan bill to address the problem. It gives the President 150 days to send a nomination rather than the current 120 days. If he does not comply, the office must remain vacant and the actions of any person acting in that office after that time are null and void, until a nominee is forwarded to the Senate. The bill also clarifies the application of the Vacancies Act to reject the Attorney General's flawed interpretation.

Mr. President, we must act to preserve the advice and consent role of the Senate. As the Supreme Court has stated, 'The structural interests protected by the Appointments Clause are not those of any one branch of Government but of the entire Republic.' Reforming the vacancies law is essential in this regard. Let us reaffirm the separation of powers for the sake of the Senate and the entire Republic.

**PRESIDENT CLINTON AND VICE PRESIDENT GORE ANNOUNCE NEW INITIATIVES
TO IMPROVE HEALTH FOR CHILDREN AND OLDER AMERICANS AT FAMILY
REUNION CONFERENCE HOSTED BY VICE PRESIDENT AND MRS. GORE
June 22, 1998**

Today, at the seventh Family Reunion Conference in Tennessee hosted by Vice President and Mrs. Gore, the President and Vice President announced a series of new initiatives to improve health for older Americans and children, and to make the health care system more responsive to the needs of families.

Children: issued an Executive Memorandum that directs eight Federal agencies to implement over 150 new initiatives to help enroll the millions of uninsured children eligible but not enrolled in health insurance programs, illustrating how a responsive, flexible government can meet the evolving needs of families; **Older Americans:** developed a multi-faceted national health initiative for older Americans, which includes: new preventive benefits for Medicare beneficiaries; more usable information to help make critical health care choices; and a new nationwide public/private Medicare council with over 80 organizations to ensure older Americans have the information they need to select health plans and encourage prevention and wellness; **Families:** renewed the call on Congress to pass a patients' bill of rights.

**CHILDREN: SIGNED EXECUTIVE MEMORANDUM TO IMPLEMENT OVER 100 NEW
FEDERAL COMMITMENTS TO ENROLL ELIGIBLE BUT UNINSURED CHILDREN.**

Over 4 million uninsured children are eligible for Medicaid but are not enrolled, and as the new Children's Health Insurance Program is implemented, even more families will have children who are eligible for State/Federal health insurance programs. Today, the President signed an Executive Memorandum that cuts across jurisdiction and traditional agency inflexibility by directing eight Federal agencies -- ranging from HUD to SSA to the Education Department -- to implement over 100 new Federal initiatives to help sign up the millions of uninsured children eligible but not enrolled in health insurance programs. This illustrates how a responsive flexible government can meet the evolving needs of families. These initiatives include:

- **Sending letters to 350,000 Federal workers, including Head Start teachers, school nurses, child support workers, and community health center directors** asking them to ensure that all of the families they work with whose children are eligible for Medicaid or CHIP are enrolled in these programs.
- **Working With National Organizations and Programs That Reach Millions of Families to Help Enroll Children in Health Insurance Programs**, including educating grandparents through the Medicare program, holding a conference with Historically Black Colleges to identify new strategies, and ensuring that sites, including 15,000 public housing projects, 400 IRS walk-in centers, and 113 job centers, have information for families about how to enroll children in health insurance.

- **Releasing a New Guide to Help Child Care Workers Enroll Uninsured Children.** Child care centers are one family friendly setting where parents can learn about how insurance programs they may be eligible for. There are already many efforts underway to link child care centers with the health needs for the millions of children in child care. Today, the Department of Health and Human Services is releasing a new child care handbook "Child Care and Medicaid: Partners for Healthy Children" to ensure that child care workers understand how to identify and enroll families with uninsured children.

OLDER AMERICANS: ANNOUNCED NEW NATIONAL CAMPAIGN TO IMPROVE HEALTH OF OLDER AMERICANS. One of the greatest concerns for families is the health of older family members. Today, the President and Vice President:

- **Implemented Historic New Preventive Benefits for Medicare Beneficiaries.** The President and Vice President announced that starting July 1st, for the first time, Medicare will cover two critical preventive benefits -- bone mass measurement tests to detect osteoporosis and diabetes education. The President enacted these new benefits, as well as a series preventive screening benefits to detect cancer, implemented earlier this year, as part of the historic Balanced Budget Act of 1997. These benefits underscore how Medicare is trying to encourage better health outcomes for families.
- **Unveiled New Nationwide Public Service Announcement on Osteoporosis Featuring the First Lady and Mrs. Gore.** One in two women will have osteoporosis fracture during her lifetime. However, millions of these women are not aware they are at risk until they have a fracture or broken bone. The Vice President unveiled a new public service announcement featuring the First Lady and Mrs. Gore to inform women about the new osteoporosis Medicare benefit and to ensure that all women, particularly older women, get bone mass measurement tests to detect osteoporosis.
- **Launched a New Internet Site for Medicare Beneficiaries.** Families need good information to help make the best health care decisions for older family members. Today, the President and Vice President launched a new nationwide Internet site (Medicare.gov) so that families can understand the options and services Medicare provides. This information will be even more critical as the historic changes the President enacted as part of the Balanced Budget Act of 1997 are implemented this fall. These reforms give beneficiaries new plan choices that could improve care for older Americans but also have the potential to cause confusion.
- **Created a Nationwide Public/Private Medicare Education Council , Including over 80 National Organizations to ensure families receive good care.** The President and Vice President announced that over 80 organizations, including the AFL-CIO, American Association of Retired Persons, the Older Women's League, National Rural Health Association, and the American Association of Family Physicians, are joining with the Health Care Financing Administration, the Administration on Aging, and the National Institutes of Health to launch a new National Medicare Education Program that will work to ensure that families have the information they need to make critical health decisions including: assuring that Medicare beneficiaries are aware of the new preventive benefits and other prevention and wellness strategies; understand new plan options so they can select the health plan that best meets their needs; and know the consumer protections available under Medicare.

FAMILIES: MAKING THE HEALTH CARE SYSTEM MORE RESPONSIVE TO THE NEEDS OF FAMILIES

- **Renewing Call on Congress to Pass a Patients' Bill of Rights.** The President also urged Congress to stop delaying and pass a patients' bill of rights that would ensure that all families have the patient protections they need in a rapidly changing health care system. This patients' bill of rights should contain a range of protections, including guaranteed access to needed health care specialists, access to emergency room services when and where the need arises, an assurance that medical records are confidential, and access to a meaningful **internal and external appeals process for consumers to resolve their differences with their health plans and health care providers.**

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Phillip Caplan (CN=Phillip Caplan/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:18-JUN-1998 21:34:32.00

SUBJECT: Tennessee Travel

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

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

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

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

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

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

TO: Michael V. Terrell (CN=Michael V. Terrell/OU=CEQ/O=EOP @ EOP [CEQ])
READ:UNKNOWN

TO: Jordan Tamagni (CN=Jordan Tamagni/OU=WHO/O=EOP @ EOP [WHO])
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TO: Aviva Steinberg (CN=Aviva Steinberg/OU=WHO/O=EOP @ EOP [WHO])
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TO: Todd Stern (CN=Todd Stern/OU=WHO/O=EOP @ EOP [WHO])
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TO: Joshua Silverman (CN=Joshua Silverman/OU=WHO/O=EOP @ EOP [WHO])
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TO: Laura D. Schwartz (CN=Laura D. Schwartz/OU=WHO/O=EOP @ EOP [WHO])
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TO: Christa Robinson (CN=Christa Robinson/OU=OPD/O=EOP @ EOP [OPD])
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TO: Jennifer M. Palmieri (CN=Jennifer M. Palmieri/OU=WHO/O=EOP @ EOP [WHO])
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TO: Megan C. Moloney (CN=Megan C. Moloney/OU=WHO/O=EOP @ EOP [WHO])

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

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TO: Shelley N. Fidler (CN=Shelley N. Fidler/OU=CEQ/O=EOP @ EOP [CEQ])

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TO: Craig Hughes (CN=Craig Hughes/OU=WHO/O=EOP @ EOP [WHO])

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TO: Phillip Caplan (CN=Phillip Caplan/OU=WHO/O=EOP @ EOP [WHO])
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TO: Jonathan Orszag (CN=Jonathan Orszag/OU=OPD/O=EOP @ EOP [OPD])
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TO: Jonathan H. Adashek (CN=Jonathan H. Adashek/OU=WHO/O=EOP @ EOP [WHO])
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TO: Daniel Wexler (CN=Daniel Wexler/OU=WHO/O=EOP @ EOP [WHO])
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TO: Dorian V. Weaver (CN=Dorian V. Weaver/OU=WHO/O=EOP @ EOP [WHO])
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TO: Ann F. Walker (CN=Ann F. Walker/OU=WHO/O=EOP @ EOP [WHO])
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TO: Beth A. Viola (CN=Beth A. Viola/OU=CEQ/O=EOP @ EOP [CEQ])
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TO: Marjorie Tarmey (CN=Marjorie Tarmey/OU=WHO/O=EOP @ EOP [WHO])
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TO: Stephanie S. Streett (CN=Stephanie S. Streett/OU=WHO/O=EOP @ EOP [WHO])
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TO: Darby E. Stott (CN=Darby E. Stott/OU=WHO/O=EOP @ EOP [WHO])
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TO: Craig T. Smith (CN=Craig T. Smith/OU=WHO/O=EOP @ EOP [WHO])
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TO: Jake Siewert (CN=Jake Siewert/OU=OPD/O=EOP @ EOP [OPD])
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TO: Dan K. Rosenthal (CN=Dan K. Rosenthal/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

TO: Simeona F. Pasquil (CN=Simeona F. Pasquil/OU=WHO/O=EOP @ EOP [WHO])
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TO: Elizabeth R. Newman (CN=Elizabeth R. Newman/OU=WHO/O=EOP @ EOP [WHO])
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TO: Linda L. Moore (CN=Linda L. Moore/OU=WHO/O=EOP @ EOP [WHO])
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TO: Sylvia M. Mathews (CN=Sylvia M. Mathews/OU=WHO/O=EOP @ EOP [WHO])
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TO: Bruce R. Lindsey (CN=Bruce R. Lindsey/OU=WHO/O=EOP @ EOP [WHO])
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TO: Christopher J. Lavery (CN=Christopher J. Lavery/OU=WHO/O=EOP @ EOP [WHO])
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TO: Karin Kullman (CN=Karin Kullman/OU=WHO/O=EOP @ EOP [WHO])
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TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

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

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READ:UNKNOWN

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

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

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

TO: Carolyn E. Cleveland (CN=Carolyn E. Cleveland/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: Debra D. Bird (CN=Debra D. Bird/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

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

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

TEXT:

The President will travel to Nashville on Monday to participate in the Vice President's Family Conference.

Background and event memos are due on Saturday at noon (before the WH Staff picnic). Of course, I would appreciate it if you could get me things Friday night.

Please call or e-mail me if you have any questions.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Rebecca M. Blank (CN=Rebecca M. Blank/OU=CEA/O=EOP [CEA])

CREATION DATE/TIME:18-JUN-1998 11:54:17.00

SUBJECT: Poverty measurement

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

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

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

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

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

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

CC: Paul Bugg (CN=Paul Bugg/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

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

TEXT:

Attached is a memo that tries to communicate a few points that I think are key as we move into simulating program effects of alternative poverty measures. The memo also makes some recommendations for the first set of simulations that OMB might want to produce.===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

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D18F2FBEB89186D0E071D41A29ADF6782C403F40CC9C36BB3BC10892343B761FA066A2F72B5ECC
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000000400000001304000008340100000014000000530400000802010000000F00000067040000
0805010000000800000076040000060801000000160000007E04000000984C006F00630061006C

June 18, 1998

TO: Poverty Measurement Working Group

FROM: Rebecca Blank

Because I thought there were still some misunderstandings in our meeting last Tuesday, I want to provide a little background information and make a suggestion about how OMB should proceed as it puts together some simulations of program effects.

Let me start with two comments that I believe might need clarifying:

(1) The primary way in which changes in the poverty measurement will affect program spending is through changes in the Guidelines, the simplified poverty thresholds published by HHS. In fact, most programs (and ALL the big programs) that are tied in any way to poverty measurement are tied to the Guidelines. Since the Guidelines are NOT the same as the poverty thresholds used by Census to calculate the actual poverty rate, but are tabulated by HHS and include a variety of changes to those thresholds, *it is impossible to simulate the program effects of a change in poverty measurement without making some assumptions about what sort of Guidelines HHS would issue under an alternative measure of poverty.*

(2) There is no consistency across programs in how family income and eligibility is calculated. In fact, it's quite amazing how very inconsistent even quite similar programs are. Programs have dealt with the fact that they care about different income levels and concepts in part by using different multiples of the poverty guidelines as part of their eligibility determination -- some programs use 100%, some use 135%, some use 185%, etc. This means that conceptually it really doesn't matter what the guidelines are because programs can always use whatever multiple they find most convenient. Of course, in the real world, programs have specifically enacted legislation that commits them to (say) setting the upper level of eligibility at households whose countable income for that specific program is below 135% of the Guidelines. These specific program rules are hard to change in the short run.

However, most programs use a measure of family income that is much closer to "cash income" than to the "full income" measure proposed by the NRC for an improved measure of poverty.

(3) Programs are currently designed to use the existing Guidelines which assume family income is defined as cash income. This suggests that at least one simulation we want to do is the following "What are the program effects of a change in the poverty measure, if we translate the alternative poverty thresholds (based on full income) into poverty thresholds that are closer to the cash income concept utilized by the programs and use this "cash equivalent threshold" to establish the Guidelines?" This essentially means recalculating the alternative thresholds to "back out" the concepts not included in cash income. Specifically, one would take the alternative thresholds (designed to be compared to "full income") and add back in average child care and work expenses, MOOP, and taxes and subtract off average in-kind benefits. This gives you the cash-equivalent threshold implied by the alternative threshold.

Now comes a key point that I felt wasn't understood in Tuesday's meeting: *One of the Pros of utilizing a benchmarked poverty rate is that the cash equivalent value of the alternative thresholds under benchmarking must of necessity be very close to the current Guidelines.* This is because of the way benchmarking works -- the thresholds are the residual calculation once you use a specific definition of family income and set an aggregate poverty rate. Essentially, the thresholds under benchmarking are the poverty line that, given a definition of "full income", results in the current poverty rate. If I were to ask "what is the cash equivalent to those thresholds that provides the same poverty rate?" this must result in an answer very closer to the current Guidelines since the current poverty line *is* a cash income threshold that results in the current poverty rate. There's no funny business here. It must be true mathematically that, if we say "We want the cash equivalent threshold implied by the alternative thresholds being used in our new measure of poverty" and if those thresholds are coming from a benchmarked alternative measure, then the cash equivalent thresholds will be very close to current poverty lines.

This suggests there are probably four program simulations that OMB wants to focus on:

1. Take the thresholds that result from a benchmarked alternative poverty measure and assume they are blindly turned into Guidelines and calculate the program effects absent any other program changes.
2. Take the thresholds that result from a benchmarked alternative poverty measure and assume they are translated into their cash equivalent values and these cash equivalent values are used to set the Guidelines (i.e., we try to produce Guidelines that reflect current program needs.)
3. Take the thresholds that result from a non-benchmarked alternative poverty measure (i.e., the 18% poverty rate calculated as the NRC alternative, or something close to it) and assume they are blindly turned into Guidelines and calculate the program effects absent any other program changes.
4. Take the thresholds that result from a non-benchmarked alternative poverty measure and assume they are translated into their cash equivalent values and these cash equivalent values are used to set the Guidelines (i.e., we try to produce Guidelines that reflect current program needs.)

Final note: *Both procedures 2 and 3 are going to result in new Guidelines very close to the current Guidelines and hence lead to quite small program changes, even in the absence of any change in program rules or regulations.* (This is true for procedure 3 only because -- quite by accident -- the "full-income" thresholds that result from the alternative NRC poverty calculation are very close to the current poverty line.) I think procedure 2 is much more defensible than procedure 3, but leaving arguments over the merit aside this does suggest that there are quite feasible calculations that are very conceptually defensible and that will result in only small program changes and may require no adjustments to the program rules. Without prejudging at all what our future recommendations might be, this is an important piece of information.

(All of this ignores changes in the composition of the poor that will result in changes in the distribution of benefits across groups regardless of how the Guidelines are defined -- This is obviously also a very important issue, but separable from the Guidelines issue discussed above.)

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-JUN-1998 08:47:58.00

SUBJECT: TOBACCO MEETING

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CC: Scott R. Hynes (CN=Scott R. Hynes/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

TEXT:

Please come to a Tobacco Meeting at 10:30 am in Erskine's office today
(6/18). kevin

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-JUN-1998 09:39:59.00

SUBJECT: Weekly Tobacco Strategy Meeting

TO: marti.thomas (marti.thomas @ ms01.do.treas.sprint.com @ inet [UNKNOWN])
READ:UNKNOWN

TO: Grundman-Stacey (Grundman-Stacey @ dol.gov @ inet [UNKNOWN])
READ:UNKNOWN

TO: sheketoff-emily (sheketoff-emily @ dol.gov @ inet [UNKNOWN])
READ:UNKNOWN

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

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

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

TO: David W. Beier (CN=David W. Beier/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

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

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

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

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

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

TO: JONATHAN.GRUBER (JONATHAN.GRUBER @ MS01.DO.treas.sprint.com @ inet [UNKNOWN])
READ:UNKNOWN

TO: Jennifer.moore (Jennifer.moore @ justice.usdoj.gov @ inet [UNKNOWN])
READ:UNKNOWN

TO: guzy.gary (guzy.gary @ epamail.epa.gov @ inet [UNKNOWN])
READ:UNKNOWN

TO: johara (johara @ osophs.dhhs.gov @ inet [UNKNOWN])

READ:UNKNOWN

TO: William H. White Jr. (CN=William H. White Jr./OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Daniel N. Mendelson (CN=Daniel N. Mendelson/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

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

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

TO: Charles F. Stone (CN=Charles F. Stone/OU=CEA/O=EOP @ EOP [CEA])
READ:UNKNOWN

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

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

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

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

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

CC: Gina C. Mooers (CN=Gina C. Mooers/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: haverkamp_jennifer (haverkamp_jennifer @ ustr.gov @ INET @ VAXGTWY [UNKNOWN])
READ:UNKNOWN

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

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

CC: MURRAY_MM (MURRAY_MM @ A1 @ CD @ VAXGTWY [UNKNOWN]) (WHO)
READ:UNKNOWN

CC: Satish Narayanan (CN=Satish Narayanan/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

CC: Dan J. Taylor (CN=Dan J. Taylor/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

TEXT:

The Weekly Tobacco Strategy Meeting is scheduled for today, June 18, at 2:45 in Room 211 OEOB.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-JUN-1998 10:23:33.00

SUBJECT: Poverty Measure--next steps

TO: Bruce N. Reed (CN=Bruce N. Reed/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

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

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

TEXT:

Sally Katzen convened a small meeting on Tuesday with OMB, CEA, and DPC to make sure we're on the same page about guidance to give Commerce and to lay out plan for getting more information about program and budget implications of various poverty measures.

Guidance to Commerce

Kathy Wallman from OMB will meet with Commerce (statistician to statistician) to convey EOP guidance:

1. annual CPI adjustments--make sense
2. geographic adjustment--don't spend a lot of time on it (Census will run various experimental measures which may be interesting, but while the concept of geographic adjustment makes sense, there is considerable concern about how to do it. May just result in massive formula fights and could open door to adjustments in other programs).
3. MOOP--explore adjusting on both the threshold and resource side
4. benchmarking--run some measures without benchmarking so we have alternatives (Sally is trying to talk to Bruce to make sure he's comfortable with that)

Timing: if it takes more time to do these things, OK for schedule to slip 1-2 months (til Feb-March 99).

Analysis of Program/Budget Implications

DPC/NEC process over next several months, with OMB taking lead on analysis. Plan is to set up regular meetings every 2 weeks--next one is Friday 6/26 at 2pm. Elena, Sally is hoping you'll be able to participate so you might want to let her know what time works best for you on a regular basis. OMB will start with biggest programs (medicaid, food stamps), but don't ignore smaller ones. Analysis is complex given that we don't know what alternatives are. Need to be careful of unintended consequences and interactions among programs. Keep this an EOP process for now--OMB may need to get data from agencies, but they shouldn't be brought in yet. Sally continues to mention assessing impact through some outreach (Bruce, I conveyed to Ceci your feeling that we shouldn't but I don't know if this has gotten to Sally yet--I don't think any outreach is imminent, but I'll make sure we discuss this at our next meeting).

Draft: June 18, 1998

Honorable Trent Lott
Majority Leader

Honorable Tom Daschle
Minority Leader

Honorable Newt Gingrich
Speaker

Honorable Richard Gephart
Minority Leader

Dear:

As you know, there have been some recent tragedies across the country that involve hate crimes. Last week a man in Jasper, Texas, was dragged behind a pickup truck, dismembered and killed. While this tragic event serves to focus America's attention on the problem, every week scores of our fellow citizens are subjected to violence on account of **their race, color, national origin, religion, sexual orientation, gender, or disability.**

In America we hear too many stories like the 13-year-old African American boy nearly beaten to death when he rode his bicycle through the wrong neighborhood, the gay American murdered as he walked home from work, the Asian American who lost her store to a firebomb hurled by a racist, the Jewish American whose house of worship was desecrated by swastikas.

We hear too many of these stories -- stories of violent acts which are not just despicable acts of bias and bigotry, they are crimes. They strike at the heart of what it means to be an American. They are the antithesis of the values that define us as a nation. They have nothing to do with freedom or equality or respect for differences of opinion, and most importantly, they prevent us from respecting one another. I believe that now is the time for us to unite as Americans and take strong and decisive action to fight these hate crimes and to stop intolerance.

I am thus writing you today to restate my deeply-held belief that the Congress must act quickly this year to pass the Hate Crimes Prevention Act of 1998. This crucial legislation would expand the ability of the Justice Department to prosecute hate crimes by removing needless jurisdictional requirements for existing crimes and by giving federal prosecutors for the first time the power to prosecute hate crimes committed on account of a bias against a person's sexual orientation, gender or disability.

There is no problem more important to the future of this country than attacking the divisive issue of intolerance, prejudice and violent bigotry. This legislation will lead the way in making sure people from all walks of life feel more safe and secure in our country, whatever their race, color, national origin, religion, sexual orientation, gender, or

disability. I implore you to move this vital piece of legislation without delay.

Sincerely,

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-JUN-1998 08:37:05.00

SUBJECT: Statement of Administration Policy on HR3725 Postal Service Health and Saf

TO: Justine F. Rodriguez (CN=Justine F. Rodriguez/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

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

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

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

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

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

TO: Daniel N. Mendelson (CN=Daniel N. Mendelson/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

TO: Kate P. Donovan (CN=Kate P. Donovan/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

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

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

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

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

TO: Barbara Chow (CN=Barbara Chow/OU=OMB/O=EOP@EOP [OMB])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

----- Forwarded by Melissa N. Benton/OMB/EOP on 06/18/98

08:34 AM -----

Total Pages: _____

LRM ID: MNB188
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Wednesday, June 17, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

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

OMB CONTACT: Melissa N. Benton

PHONE: (202)395-7887 FAX: (202)395-6148

SUBJECT: Statement of Administration Policy on HR3725 Postal Service Health and Safety Promotion Act

DEADLINE: 2 p.m. Friday, June 19, 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. 3725 was ordered reported by the House Education and the Workforce Committee on June 11, 1998. Floor action has not yet been scheduled. The Administration has not taken a position on this bill to date.

The attached draft SAP was developed in anticipation of House floor action.

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- 40-Federal Energy Regulatory Commission - Don Chamblee - (202) 208-0870
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 6-AGRICULTURECONG AFFAIRS - Vince Ancell (all testimony) - (202) 720-7095
 119-Tennessee Valley Authority - David Withrow - (202) 898-2999
 46-Federal Mine Safety & Health Review Comm. - Mary Lu Jordan - (202) 653-5660
 99-Panama Canal Commission - David Ballenger - (202) 634-6441
 33-Environmental Protection Agency - John Reeder - (202) 260-5414

EOP:

Barbara Chow
 Daniel N. Mendelson
 Barry White
 Larry R. Matlack
 Lori Schack
 Bruce D. Long
 Lisa B. Fairhall
 Douglas D. McCormick
 Daniel J. Chenok
 Jonathan Orszag
 Elena Kagan
 Paul J. Weinstein Jr.
 Karen Tramontano
 Robert G. Damus
 Kate P. Donovan
 Broderick Johnson
 Mickey Ibarra
 Justine F. Rodriguez
 Janet R. Forsgren
 James C. Murr

LRM ID: MNB188 SUBJECT: Statement of Administration Policy on HR3725
 Postal Service Health and Safety Promotion Act

RESPONSE TO
 LEGISLATIVE REFERRAL
 MEMORANDUM

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

You may also respond by:

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

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

TO: Melissa N. Benton Phone: 395-7887 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

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

DRAFT -- NOT FOR RELEASE

June 17, 1998
(House)

H.R. 3725 - Postal Service Health and Safety Promotion Act
(Greenwood (R) PA and one other)

The Administration supports enactment of H.R. 3725, a bill that would apply the requirements of the Occupational Safety and Health (OSH) Act to the United States Postal Service in the same manner as any private employer, including the imposition of penalties for safety and health violations. However, the Administration also believes that all public employees should receive the complete protection of the OSH Act, and urges the Congress to expand the bill's coverage to include all Federal, State and local government employees. Although twenty-three States already provide full OSH Act coverage for their public employees, the remainder do not. Federal employees also lack the full protection of the Act.

* * * * *

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-JUN-1998 17:33:45.00

SUBJECT:

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

READ:UNKNOWN

TEXT:

----- Forwarded by Richard Socarides/WHO/EOP on 06/18/98
05:26 PM -----

Tracey E. Thornton
06/18/98 05:03:38 PM
Record Type: Record

To: Richard Socarides/WHO/EOP
cc:
Subject:

----- Forwarded by Tracey E. Thornton/WHO/EOP on 06/18/98
05:07 PM -----

Tracey E. Thornton
06/18/98 04:31:20 PM
Record Type: Record

To: Kate P. Donovan/OMB/EOP
cc:
Subject:

Kate, can we run this through our process with a quick turn around? DOJ, etc....

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

TEXT:

Unable to convert ARMS_EXT: [ATTACH.D21]MAIL458245963.126 to ASCII,
The following is a HEX DUMP:

FF5750435A050000010A02010000000205000000EA14000000020000FE8700EFF97A2247342CE9
394186241477B56B67224C627CFFB21B4CE2FFC29280D4D197464D25450FF26ABF6E47EE0FC4DC

Draft: June 18, 1998

Honorable Trent Lott
Majority Leader

Honorable Tom Daschle
Minority Leader

Honorable Newt Gingrich
Speaker

Honorable Richard Gephart
Minority Leader

Dear:

As you know, there have been some recent tragedies across the country that involve hate crimes. Last week a man in Jasper, Texas, was dragged behind a pickup truck, dismembered and killed. While this tragic event serves to focus America's attention on the problem, every week scores of our fellow citizens are subjected to violence on account of **their race, color, national origin, religion, sexual orientation, gender, or disability.**

In America we hear too many stories like the 13-year-old African American boy nearly beaten to death when he rode his bicycle through the wrong neighborhood, the gay American murdered as he walked home from work, the Asian American who lost her store to a firebomb hurled by a racist, the Jewish American whose house of worship was desecrated by swastikas.

We hear too many of these stories -- stories of violent acts which are not just despicable acts of bias and bigotry, they are crimes. They strike at the heart of what it means to be an American. They are the antithesis of the values that define us as a nation. They have nothing to do with freedom or equality or respect for differences of opinion, and most importantly, they prevent us from respecting one another. I believe -- and I hope you will agree -- that now is the time for us to unite as Americans and take strong and decisive action to fight these hate crimes and to stop intolerance.

I am thus writing you today to restate my deeply-held belief that the Congress must act quickly this year to pass the Hate Crimes Prevention Act of 1998. This crucial legislation would expand the ability of the Justice Department to prosecute hate crimes by removing needless jurisdictional requirements for existing crimes and by giving federal prosecutors for the first time the power to prosecute hate crimes committed on account of a bias against a person's sexual orientation, gender or disability.

There is no problem more important to the future of this country than attacking the divisive issue of intolerance, prejudice and violent bigotry. This legislation will lead the way in making sure people from all walks of life feel more safe and secure in our country,

whatever their race, color, national origin, religion, sexual orientation, gender, or disability. I implore you to move this vital piece of legislation without delay.

Sincerely,

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-JUN-1998 18:02:10.00

SUBJECT: Celebrating WH Women on the Move Part Deux

TO: Dorian V. Weaver (CN=Dorian V. Weaver/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TO: Lael Brainard (CN=Lael Brainard/OU=CEA/O=EOP @ EOP [CEA])
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

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

TO: Patricia Solis-Doyle (CN=Patricia Solis-Doyle/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

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

READ:UNKNOWN

TO: Nancy V. Hernreich (CN=Nancy V. Hernreich/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TO: Janet L. Yellen (CN=Janet L. Yellen/OU=CEA/O=EOP @ EOP [CEA])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Patricia M. Ewing (CN=Patricia M. Ewing/O=OVP @ OVP [UNKNOWN])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

CC: Cheryl M. Carter (CN=Cheryl M. Carter/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

In my spare time, I created an email that you can send to women that you would like to extend an invitation to as we prepare to celebrate our colleagues next week. You can delete this part of the email and use the following for something with the honorees and the logistics on the same page. Please feel free to invite other women from your department who work or are friends with any of our honorees. Thank you for agreeing to be a co-organizer!!

Please feel free to call Jen Palmeiri - x61962, or drop by her office, to contribute your \$50 to help make their celebration a fabulous success!! (If you have already declined we would still appreciate your help in organizing, and especially please still let your colleagues know about the

celebration!!) Thanks!!

Please Help Celebrate

Our

White House Women on the Move

Honoring:

Sylvia Mathews

Maria Echaveste

Susan Liss

Minyon Moore

Audrey Haynes

Linda Moore

Date: June 25, 1998

Time: 7:00pm - 9:00pm

Place: Music City Roadhouse

1050 30th St. NW

Georgetown, 337-4444

Other: No gifts necessary

Please feel free to share this invitation with other women from the WH and the outside world who work or are friends with the above mentioned honorees!! Look forward to seeing you there!!!!!!!!!!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-JUN-1998 16:07:31.00

SUBJECT: Miscellaneous Abortion Issues

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

CC: Noa A. Meyer (CN=Noa A. Meyer/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

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

READ:UNKNOWN

CC: Aimee M. Malnati (CN=Aimee M. Malnati/O=OVP @ OVP [UNKNOWN])

READ:UNKNOWN

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

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

Tania I. Lopez (CN=Tania I. Lopez/OU=WHO/O=EOP [WHO])

READ:UNKNOWN

TEXT:

Several of us have discussed needing to get together internally and make sure we're on the same page sense so many abortion related issues are

surfacing. Chris and I talked this morning and felt we should all get together and discuss, at least the following:

Medicare/Abortion

Insurance Coverage of Abortion

And possibly another item or two.

We'd like for as many of us as possible to get together in Ann's office at 2pm on Friday.

Hope you can make it. thanks