

NLWJC - KAGAN

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ARMS - BOX 035 - FOLDER - 006

[07/31/1998]

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Thomas Freedman to Elena Kagan, et al. Subject: NAS report on single food agency and Exec. Order [partial] (1 page)	07/31/1998	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[07/31/1998]

2009-1006-F
ke752

RESTRICTION CODES

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

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

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

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

RR. Document will be reviewed upon request.

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

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Constance J. Bowers (CN=Constance J. Bowers/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:31-JUL-1998 14:49:51.00

SUBJECT: OMB Proposed Revised TANF parag. for ED conferee letter on HR 6

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

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

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

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

TO: Robert M. Shireman (CN=Robert M. Shireman/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: Melinda D. Haskins (CN=Melinda D. Haskins/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

CC: Daniel I. Werfel (CN=Daniel I. Werfel/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

CC: Maureen H. Walsh (CN=Maureen H. Walsh/OU=OMB/O=EOP [OMB])
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

READ:UNKNOWN

TEXT:

Following is a reformulation of the Wellstone paragraph for the ED letter to conferees on HR 6, the Higher Education bill. It has been cleared by Barry and Barbara.

Please let me know by 5:00 p.m. today if this language is acceptable so that I can circulate it to ED and HHS for concurrence.

The Senate bill contains a provision amending the Temporary Assistance for Needy Families program (TANF). It would expand the type and length of education programs that can be counted toward a State's "work activity" participation rate. The provision would also extend the FY98 and FY99 exclusion of teen parents from the cap on education programs that can be counted toward a State's "work activity" participation rate to FY2000 and beyond. The Administration strongly supports the TANF goal of enabling more welfare recipients to move from welfare to work. We look forward to working with conferees to ensure that the final legislation recognizes the role of education in meeting this goal, while still maintaining the welfare law's strong work focus.

July 31, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

RE: DPC Weekly Report

Health Care -- Patients' Bill of Rights Update: The Senate adjourned this week without bringing up the patients' bill of rights for a vote or debate. Your radio address and the event the Vice President participated in with Senate Democrats on Friday, focused on the Senate Republicans' lack of action and emphasized the key weaknesses in their bill. Earlier this week, Senators. Chafee, Lieberman, and Graham introduced their own patients' bill of rights proposal. With the exception of Sen. Spector, this legislation is not likely to receive any additional Republican support, since the bill is much closer to Daschle-Kennedy than the Senate Leadership proposal and because Sen. Lott is placing extraordinary pressure on Republicans not to cosponsor the bill. It is important to note that, in some ways, the new bill goes even further than your Quality Commission's recommendations. Yet, we have not yet embraced this legislation because early Administration support would not be helpful to Sen. Chafee or improve the likelihood of eventually getting a strong bill out of the Senate. Moreover, Senate Democrats do not yet want to compromise until it becomes clear that it is necessary to do so.

The most contentious issue on the patients' rights legislation continues to be the enforcement mechanism. As you know, the Dingell-Ganske/Daschle-Kennedy bill provides for state-court enforced remedies for patients who have been harmed by wrongful actions taken by health plans. The Republican Leadership's approach utilizes civil monetary penalties, which are completely inadequate because their penalties are largely based on the degree to which health plans are in compliance, rather than providing damages to patients whose health plans' actions harm or kill them. Chafee-Lieberman attempts to split the difference between these two bills with federally-enforced remedies that would provide for economic/compensatory damages but not punitive awards. Senators. Daschle and Kennedy have already stated this approach is inadequate. But this is probably more for positioning reasons than for serious policy objections.

To underscore how serious we are about passing a strong patients' bill of rights this year, we need to continue our push for such legislation throughout the summer. We need to spend additional time in defining the differences between the Republican and Democratic bills, so that the media recognizes that the distinctions are much more than just the right to sue an HMO. We can achieve this through additional events and outside validation by groups and policy experts.

Health Care -- DeSario Case: Earlier this year, the second circuit of U.S. Court of Appeals ruled in favor of the state of Connecticut Medicaid policy that was used to deny

beneficiaries of needed medical equipment. This ruling infuriated the disability community and moved them to appeal the decision. Because HHS concluded that Connecticut's coverage policy is excessively restrictive and discriminatory to people with disabilities, it believes the ruling is incorrect. Although states can apply restrictions to coverage of medical equipment by basing the coverage decision on the health care needs of the entire Medicaid population, they cannot make decisions on the entire needs of the population without taking note of the special needs of the disability population. In addition, states must have a publicly known and timely appeals process. HHS is planning on sending a clarifying guidance letter next week to all states. We decided to hold this letter until after this weekend's NGA conference because the Department's interpretation will likely not be well received by many Governors. While the Governors will be relieved that the guidance does not limit their authority to restrict coverage, it will likely broaden many states coverage rules and potentially increase Medicaid expenditures. While disability advocates will welcome this letter, they will wish that it went further by requiring coverage of all medically necessary devices.

Tobacco -- House Legislative Update: House Republicans may unveil their tobacco legislation as soon next week. Although we have not yet seen legislative language, the seven bullet points they released before the July 4th recess indicate that it will be a watered-down bill, with no price increase, weak advertising provisions, and limited FDA authority. House Democrats expect to have a Rules Committee fight over whether they will be allowed to offer a substitute. We have been helping Representative Waxman prepare for the possible contingencies. While the Hansen-Meehan bill is an option, Waxman is also drafting a bill that does not include an up-front price increase but contains very large lookback penalties which will effectively function as a price increase.

Tobacco -- New CDC Data: The CDC released a study on Thursday which indicates that lower income, minority, and younger populations would be more likely to quit smoking and reduce their cigarette consumption in response to a price increase. Controlling for income and education, blacks are twice as responsive as whites to price increases and Hispanics are even more price responsive. These differences indicate that cigarette price increases would lower smoking rates and enhance public health outcomes especially for minorities. Specifically, the study found that about one quarter of 18-24 year old Hispanic smokers and approximately 10 percent of 18-24 year old black smokers are estimated to quit smoking altogether in response to a 10-percent price increase in comparison with about 1 percent of white smokers of the same age. With the exception of whites, the effect of price on smoking rates declines with age. The study examined data on adults only.

Service -- Using Work-Study Funds for Community Service: Some time ago, you and Harris Wofford discussed how to encourage schools to use work-study funds for community service by college students. For the past three years, colleges and universities have been required to report how much of their federal work-study funds are spent on community service. According to the data, the average college/university spent 10% of its work-study funds on community service in 1996-97, which is up slightly from 7% in 1994-95. Out of a total of 3,250

schools, only 12% use more than 20% of their funds for service, and only 2% of schools use more than half their allocation for service.

Under a 1992 law, schools must spend at least 5% of work-study funds on community service. In 1996-97, 9% of all schools (290) failed to meet this requirement. This is down significantly from 24% two years earlier, but still high. The law defines community service broadly for the purposes of the 5% minimum. Any job that is designed to improve the quality of life for local residents or solve a local problem qualifies. For example, jobs in a college library may qualify depending on whether there are other libraries in the community. The Education Department does not penalize schools that fail to meet this requirement.

We will not know the impact of America Reads on these numbers until October, when data from 1997-98, the first year of that program, is complete.

Welfare Reform -- Minorities on Welfare Reform Caseload: The New York Times report on the increasing share of minorities on the welfare caseloads highlights some important trends and issues that we will explore further. In the meantime, it's helpful to put the information in context.

First, the racial/ethnic composition of welfare caseloads has been changing gradually over the last 25 years: whites rose from 38 percent in 1973 to a peak of 42 percent in 1983 and have dropped steadily to 35 percent in 1997. The proportion of blacks has generally declined, from 46 percent in 1973 to 37 percent in 1997. As the New York Times points out, the most significant trend is the increase in the Hispanic portion of the caseload, from 13 percent in 1973 to 23 percent in 1997. However, this is not too surprising given the rapid increase in the Hispanic population overall. The question is how welfare reform may be affecting these historic trends. National data on the racial/ethnic characteristics of welfare recipients are only available through June 1997, so it is hard to gauge the impact of the past year when welfare reform efforts accelerated so rapidly. Some states have more recent data which they shared with the Times, and which may reveal more significant trends. It is also worth noting that the caseload data only tells who is currently on the rolls; it does not tell the rate at which different groups are entering and exiting.

Second, the number of white, black and Hispanic families receiving welfare have all dropped since 1994 (when caseloads peaked), but the rate of decrease has been greater for whites than blacks, with an even slower decline for Hispanics.

	<u>94</u>	<u>97</u>	<u>% Change</u>
Whites	1.9M	1.4 M	-26%
Blacks	1.8M	1.5 M	-18%
Hispanics	1.0 M	.9 M	-9%

Third, the changes are more dramatic than the actual mix of who is left on the caseloads, at least on a national basis. While the story pointed out important trends, the conclusion that the composition of the caseload has changed dramatically seems unwarranted.

	<u>94</u>	<u>97</u>
Whites	37%	35%
Blacks	36%	37%
Hispanics	20%	23%

Fourth, there is some encouraging evidence from Census data that the employment rates of former welfare recipients are *increasing* even faster for minorities than for whites (although the actual rates and the disparity between groups remains disturbing). Between 1996 and 1997, the percentage of all prior year welfare recipients who were employed in the next year increased by 28%. The increase was highest for blacks (33%), followed by Hispanics (22%) and whites (21%).

Finally, there is longstanding evidence that minorities on welfare disproportionately share characteristics that may make it harder to leave the rolls: lower education levels, lower marriage rates, larger families, employment and housing discrimination, and isolation from areas with jobs.

Welfare Reform -- Welfare Reform Anniversary Event, including Medicaid 100-hour rule: On August 5th, you will participate in a Welfare Reform Anniversary Event to mark the progress we've made over the past two years and announce steps we're taking to ensure even more families make a successful transition from welfare to self-sufficiency by ensuring that those leaving welfare for work have health coverage and accumulate assets. We will release HHS' first Report to Congress on TANF and announce regulations waiving old welfare rules that prevented some states from providing Medicaid to two parent families who go to work (100 hour rule). In addition, you will endorse the House and Senate Individual Development Accounts proposals to help low income families save and build assets (Coats/Harkin in Senate, Souder/Hall/Kasich in House). Since August 5th is also the one-year anniversary of enacting the \$3 billion Welfare-to-Work grants, the Department of Labor will release Welfare-to-Work formula grants to 5 more states (MD, VA, WV, NM, NH). Finally, we can release the latest numbers showing that federal agencies have now hired 5,714 new workers off the welfare rolls.

Crime/Drugs -- Treasury-Postal Appropriations: (1) Firearms Clips. A Feinstein amendment to ban the importation of large capacity ammunition clips was tabled by a vote of 54-44. The amendment would have banned the import of clips which were grandfathered under the 1994 assault weapons ban. (2) Drugs. Legislation sponsored by Senators. Biden and Hatch to reauthorize ONDCP was added to the bill by voice vote. The Administration supports the Hatch-Biden version of the reauthorization bill.

Crime -- Prison Population: On Sunday, the Justice Department will release a report showing that in 1997, the nation's adult prison population grew by 61,186 men and women -- a 5.2% increase from 1996. Last year, the total number of federal and state inmates reached over 1.24 million adults -- a 60% increase over the inmate population in 1990. However, last year's increase (5.2%) is lower than the average annual growth of 7% since 1990. Between 1990 and 1996 (the last year this particular data was available), violent offenders were responsible for much of the growth among state prisoners, accounting for 50% of the increase during the 6-year period. In addition, the number of female prisoners increased by 6.2% in 1997 to a total of 79,624; women now comprise 6.4% of all prisoners -- up from 5.7% in 1990.

Of the total 1997 prison population, state prisons held 1.13 million inmates and federal prisons held 112,900 inmates. California and Texas together held more than a quarter of all state prisoners. Nine states reported prison population increases of at least 10 percent, with HI (23%), WV (15%), AK (14%) and ME (14%) reporting the largest increases. States reporting decreases include: OR, MT, NM, and D.C.

Education -- Charter Schools: The Senate Labor and Human Resources Committee reported out the charter schools bill unanimously, and without amendment. Before the bill comes to the floor, there is one remaining issue to be worked out with Senator Coats, regarding a requirement in existing law that charter schools use a lottery to select students if the school is oversubscribed. Senator Coats wants the Education Department to provide guidance that interprets that requirement flexibly, enabling charter schools to guarantee places for the children of founders and siblings of students already enrolled. Coats may also push for guidance that would make it easy for charter schools to have selective admission requirements, rather than being open to all interested applicants. We are working with the Education Department to find reasonable accommodations to these issues, without opening the door to abuses that could increase the number of racially identifiable schools. Our preference is to craft Education Department guidance that is satisfactory to Senator Coats.

Education -- National Board for Professional Teaching Standards: In preparation for the conference on the Higher Education Act, we are working on a strategy for eliminating the Goodling provision that prohibits continued funding for the NBPTS. This will be a difficult fight. Goodling appears as dug in on this issue as he has been on national tests. There is little interest in the Board among House Democrats on the conference committee, and though there is bipartisan support for the Board in the Senate, the prospects for sustaining a veto are weak in light of the overwhelming majorities that supported the bill in both Houses. While few members on either side of the aisle share Goodling's antipathy toward the Board, some of his attacks (e.g., the high salary of the Board's President and the high financial cost to teachers for seeking board certification) appear to resonate even with supportive Democrats. Our overall strategy is to work with the Board to find compromise language that responds to the criticisms that are being made while preserving the federal funding stream. We are also working closely with NEA and AFT to shore up support among key House Democrats, and will work with

Governor Hunt at the NGA meeting this weekend to mobilize Republican Governors and business leaders who support the Board.

Education -- Ed-Flex: The Senate Labor and Human Resources Committee reported out an Ed-Flex bill which makes all states eligible to receive the authority to waive federal education requirements if they have academic standards, tests and school-by-school accountability measures in place. The bill reflects the principles in the Administration's proposal you announced at the NGA meeting last winter, and we have indicated our support for the bill. Senate Democrats tried to stall the bill with a range of amendments, but ultimately, and unhappily, let it pass. The prospects for floor action are not clear at present.

Education -- DC charter schools: The Administration and congressional staff have been exploring ways to address a potential shortfall of funding for DC charter schools this academic year. The budget developed earlier this year by the Control Board and the DC Government significantly underestimated the number of students likely to attend charter schools, providing only \$12 million of the approximately \$30 million needed for full per-pupil allocations to support the 4,000 students projected to attend charter schools this year. While the original DC appropriations bills introduced in the House and Senate included only the \$12 million recommended for charter schools, the House version of the bill has added \$20 million from the federal payment, a move supported by the Administration. Meanwhile, a manager's amendment offered to the bill on the Senate floor may include a provision either to fully fund charter schools out of the DC surplus or direct the Control Board to determine an offset within the DC budget to fully fund charter schools. The Administration will continue to work with Congress and the Control Board in the coming days to make sure there is full funding available to the schools.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: William P. Marshall (CN=William P. Marshall/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:31-JUL-1998 17:13:47.00

SUBJECT: cloning

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

TO: Rachel E. Levinson (CN=Rachel E. Levinson/OU=OSTP/O=EOP @ EOP [OSTP])
READ:UNKNOWN

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

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

TEXT:

Please note that Shelli Peterson (6-7804) will now be handling this issue for the Counsel's Office.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:31-JUL-1998 18:14:05.00

SUBJECT: POTUS Schedule Next Week

TO: Donna L. Geisbert (CN=Donna L. Geisbert/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: 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: 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@A1@CD@VAXGTWY (WEINSTEIN_P@A1@CD@VAXGTWY @ VAXGTWY [UNKNOWN]) (O
READ:UNKNOWN

TEXT:

Monday Labor/HHS Appropriations Bill Education Event/Summer Jobs
Announcement

Briefing: 10:00 (Oval)
Event: 11:00 (Summer Jobs Site)

Tuesday Welfare Reform Anniversary Event
Briefing: 2:15 pm (Oval)
Event: 2:45 pm (East Room)

Wednesday Meeting with House Democratic Caucus
Foreign Meetings

Thursday Brady Event
Briefing: 10:00 am (Oval)
Event: 10:30 am (Rose Garden)

Friday Statement on employment numbers and possible GI
Bill Signing.

Saturday Radio Address (Possibly on Food Stamp Fraud or new
Transportation figures.)

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Fred DuVal (CN=Fred DuVal/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:31-JUL-1998 13:36:43.00

SUBJECT: AGs - tobacco

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

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

TEXT:

I just heard from Chris Greggiore (and also from Tom Miller). The drafting team worked all night to put on paper agreements reached so far, and proposals for remaining issues. The money is largely settled, but public health issues remain, and she specifically pointed out her concern with the behavior of the non-participating manufacturers. The "recess" is to allow the cigarette negotiators a chance to brief their CEOs and get some further guidance. They have every expectation of resuming talks Wed or Thursday.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Kate P. Donovan (CN=Kate P. Donovan/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:31-JUL-1998 19:22:20.00

SUBJECT: House C/J/S Floor SAP

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

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

TO: Jeffrey M. Smith (CN=Jeffrey M. Smith/OU=OSTP/O=EOP@EOP [OSTP])
READ:UNKNOWN

TO: Wesley P. Warren (CN=Wesley P. Warren/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN

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

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

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

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

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

TO: RUDMAN_M@A1@CD@VAXGTWY (RUDMAN_M@A1@CD@VAXGTWY [UNKNOWN]) (NSC)
READ:UNKNOWN

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

TO: Kerri A. Jones (CN=Kerri A. Jones/OU=OSTP/O=EOP@EOP [OSTP])
READ:UNKNOWN

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

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

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

READ:UNKNOWN

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

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

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

CC: Judy Jablow (CN=Judy Jablow/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN

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

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

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

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

CC: Michelle Crisci (CN=Michelle Crisci/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: FARRAR_J@A1@CD@VAXGTWY (FARRAR_J@A1@CD@VAXGTWY [UNKNOWN]) (NSC)
READ:UNKNOWN

CC: Victoria A. Wachino (CN=Victoria A. Wachino/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

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

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

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

CC: Jonathan H. Adashek (CN=Jonathan H. Adashek/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

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

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

READ:UNKNOWN

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

TEXT:

The House C/J/S Floor SAP has been virtually cleared. Below is a revised version reflecting possible amendments. Please review the new language (in bold) and provide comments/clearance by 10:30am Monday. Floor action is expected Monday evening. Thanks.

H.R. 4276 -- COMMERCE, JUSTICE, STATE, THE JUDICIARY,
AND RELATED AGENCIES APPROPRIATIONS BILL, FY 1999
(Sponsors: Livingston (R), Louisiana; Rogers (R), Kentucky)

This Statement of Administration Policy provides the Administration's views on H.R. 4276, the Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, FY 1999, as reported by the House Appropriations Committee. Your consideration of the Administration's views would be appreciated.

The Administration appreciates the Committee's support for many of the President's priorities within the 302(b) allocation. For example, we appreciate the Committee's funding of law enforcement programs in general and the COPS program in particular. Funding COPS at the requested level of \$1.4 billion is consistent with the Balanced Budget Agreement and would enable us to achieve the goal of hiring 100,000 additional police officers by the year 2000.

However, the allocation is simply insufficient to make the necessary investments in other critical programs funded by this bill. The only way to achieve the appropriate investment level is to offset discretionary spending by using savings in other areas. The President's FY 1999 Budget proposes levels of discretionary spending for FY 1999 that conform to the Bipartisan Budget Agreement by making savings in mandatory and other programs available to help finance this spending. In the Transportation Equity Act, Congress -- on a broad, bipartisan basis -- took similar action in approving funding for surface transportation programs paid for with mandatory offsets. We want to work with the Congress on mutually agreeable mandatory and other offsets that would be used to increase high-priority discretionary programs, including those funded by this bill. In addition, we hope that the House will reduce funding for lower priority and unrequested discretionary programs, and redirect funding to programs of higher priority.

The Administration has very serious concerns, discussed below, with the Committee's inadequate funding of a number of priority programs, as well as with objectionable language provisions. If the bill were presented to the President in its current form, the President's senior advisers would recommend that the President veto the bill.

Legal Services Corporation.

The Committee bill funds the Legal Services Corporation (LSC) at \$141 million, \$142 million below the FY 1998 enacted level and \$199 million below the President's request of \$340 million. This funding level is unacceptable. It represents a 65-percent cut from the FY 1995 level of \$400 million, would severely cripple the program, and calls into question the Federal Government's commitment to ensuring that all Americans, regardless of income, have access to the Judicial system. The Supreme

Court recently ruled that interest on lawyer trust accounts (IOLTAs) are the private property of clients and cannot be used to generate resources for civil legal services. This eliminates a funding source that provided LSC programs with more than \$57 million last year and underscores the importance of action to fully fund the President's request. The Administration strongly supports efforts to increase funding for the LSC.

Small Business Administration

The Administration strongly objects to the Committee's funding levels for the administration of the Small Business Administration's (SBA's) programs. The Committee's funding level for the Salaries and Expenses account regular operating expenses represents a 27- percent reduction from the President's request, and includes a requirement that all of the reduction be taken from headquarters functions. Such funding levels would require reductions in staff by more than 1,200 staff years through severe reductions-in-force. Not even the elimination of all headquarters employees would satisfy the Committee report requirement to take reductions solely from non-District Offices

Equal Employment Opportunity Commission

The Administration strongly urges the House to fully fund the President's request of \$279 million for the Equal Employment Opportunity Commission (EEOC), \$18.5 million above the Committee mark. The additional resources are essential and would allow EEOC to reduce the backlog of pending complaints and implement much-needed reforms in the way all complaints are managed, including an enhanced alternative dispute resolution program. We look forward to working with Congress to provide funding for EEOC and other programs included in the President's civil rights enforcement initiative.

Department of Commerce

Decennial Census. The language in the Committee bill is unacceptable. It is critical that the Congress provide full-year funding for the Decennial Census without any restrictions on the use of statistical sampling. Delays or disruptions would unacceptably complicate the management of this massive operation. We strongly urge the House to pass an amendment that removes these onerous language restrictions and provides funding that will allow the Census Bureau to implement its current plan. This plan was developed by statistical experts and based on recommendations from the National Academy of Sciences, which found that regardless of cost, the methods of the past could not achieve satisfactory accuracy. The statistical methods incorporated in the Bureau's plan would produce the most accurate census possible and virtually eliminate the large undercounts of minorities, children and other groups that occurred in the 1990 census.

National Oceanic and Atmospheric Administration. The Administration objects to inadequate funding for Administration priorities within the National Oceanic and Atmospheric Administration (NOAA), including: the Clean Water Initiative to protect coastal communities; the GLOBE program, which promotes scientific discovery and student achievement; and, activities to implement the Endangered Species Act and Magnuson-Stevens Act. Reductions to the Climate and Global Change Program would slow research to understand the implications of extreme weather events such as El Nino. In addition, by not fully funding the request for the National Weather Service, the Committee threatens vital services. The Administration strongly opposes amendment language that extends state

jurisdiction of fisheries from 3 miles to "3 marine leagues" for Alabama, Louisiana, and Mississippi. The extension of States' jurisdiction over marine resources beyond the currently drawn boundaries would undermine the current management regime and could have severe and detrimental effects on living marine resources in the Gulf. Finally, the Administration is concerned with funding restrictions in bill language that could limit NOAA's ability to fulfill its mission.

The Administration is also particularly concerned about inadequate funding to fulfill contract obligations for follow-on polar and geostationary weather satellite programs. Renegotiation or termination of these contracts would jeopardize satellite continuity for both civilian and military operations and increase costs. The recent failure of the GOES-9 satellite underscores the need to maintain production schedules.

National Institute for Standards and Technology. The Administration is concerned that the Committee's exclusion of the requested advance appropriation for the Advanced Measurement Laboratory would increase costs and delay completion by at least a year. We are also very disappointed by the reductions in the Advanced Technology Program, which fosters cutting-edge research. The Committee allowance would support only \$43 million in new awards, 54 percent below the President's request of \$94 million for new awards. Any amendment to eliminate ATP funding for new awards would be unacceptable.

Statistics Initiatives. The Administration is concerned about inadequate funding for high-priority statistical initiatives, especially the improvement of National Account measures, the Poverty Measure initiative, and the Continuous Measurement program, which will provide annual demographic information on the population and eliminate the need for the long form in the 2010 Census.

Minority Business Development Agency. Management reforms at the Minority Business Development Agency (MBDA) have improved delivery of programs and technical assistance, and MBDA has emerged as a stronger, more focused agency. The Administration objects to the reduction to MBDA's base and requests restoration of \$2.8 million.

National Information Infrastructure Program and Restrictions on Export Controls. In the Committee bill, the National Information Infrastructure program is reduced by \$4 million (20 percent) below the FY 1998 enacted level. Such a reduction would substantially decrease seed money for innovative information technology projects. In addition, the Administration strongly objects to onerous reporting requirements that would require the Department to notify Congress before issuing satellite export licenses to China.

Year 2000 Computer Conversion

In the FY 1999 Budget, the President has requested more than \$1 billion for Y2K computer conversion. In addition, the budget anticipated that additional requirements would emerge over the course of the year and included an allowance for emergencies and other unanticipated needs. It is essential to make Y2K funding available quickly and flexibly. The House effort to defer action on the emergency fund in the Treasury and General Government Appropriations bill is very troubling, particularly in light of several Subcommittees, including the Commerce, Justice, State Subcommittee, deciding to not fund the base Y2K requests.

Department of Justice

The Administration appreciates the Committee's continued support for law enforcement and other Department of Justice activities. However, as discussed below, we are concerned about Committee action in a number of areas.

Title V -- At-Risk Children's Grant Program. The Administration urges the House to provide \$95 million requested for the At-Risk children's proposal. The At-Risk proposal supports local community prevention programs such as mentoring, truancy prevention, and gang intervention to prevent young people from becoming involved in the criminal justice system.

Drug Testing and Intervention. We are disappointed by the Committee's failure to provide any of the \$85 million requested for the drug testing and intervention program. Systematic drug testing is a proven, cost-effective means of using the coercive power of the criminal justice system to move non-violent offenders into drug treatment programs.

Imposition of State Ethics Rules. The Administration strongly opposes the provisions in the bill that would impose State ethics rules on Federal attorneys and establish an independent board that could fire Federal agents, prosecutors, and civil law enforcement attorneys. These provisions would undermine Federal law enforcement by subjecting Department of Justice attorneys to multiple and inconsistent State rules of conduct, transferring to the States the authority to regulate the conduct of Federal attorneys in the performance of their Federal law enforcement duties. For example, this legislation would hamper investigations of drug operations across State lines as well as other multi-jurisdiction investigations such as the Oklahoma City bombing investigation.

Protection Against Terrorism, Including Use of Chemical and Biological Weapons. We appreciate the Committee's support of the Administration's effort to combat terrorism, particularly the use of chemical and biological weapons. However, we ask that the Committee fully fund the request for the Attorney General's Counterterrorism Fund, including funding for local bomb squad equipment.

Protection Against Cybercrime and Attacks on Our Nation's Critical Infrastructures. The Committee mark excludes Counterterrorism Fund support to combat cybercrime, including funding for potential transfer to other agencies and for the FBI's National Infrastructure Protection Center. The Department of Commerce has identified funding requirements for the interagency Critical Infrastructure Assurance Office, which coordinates the development and integration of a national critical infrastructure plan. Failure to provide funding would endanger the Government's efforts to fight cybercrime.

Indian Country. We appreciate the Committee mark for Indian Country. However, we urge the House to fully fund the Administration's request for Indian Country criminal justice assistance, including FBI and U.S. Attorneys resources.

Federal Bureau of Investigation. The Administration is disappointed that the Committee's level for the Federal Bureau of Investigation (FBI) is \$52 million below the President's request. We are particularly concerned about the proposed \$30 million funding level for the FBI's Information Sharing Initiative (ISI), which is \$20 million below the request, and would prevent the FBI from improving its electronic case file information and thereby increasing the effectiveness and efficiency of the FBI's

investigations. Furthermore, the reporting requirement on ISI would impede the FBI's ongoing efforts to provide critical information technology infrastructure support using existing resources.

Immigration and Naturalization Service. We appreciate the Committee's support for the Administration's border control initiative. However, the Committee's \$2.567 billion mark, \$156 million below the President's request, is insufficient to support a comprehensive, bipartisan border management and enforcement strategy. The President's request supports increased border management funding for Border Patrol agents, critical infrastructure and technology, detention support, interior enforcement, and includes \$36 million more than the Committee's level for Border Patrol, detention, and office construction. We urge the House to fully fund the President's request.

Bureau of Prisons/Abortion. The Administration urges the House to strike section 103 of the Committee bill, which would prohibit the Bureau of Prisons from funding abortions except in cases of rape or where the life of the mother is endangered. The Department of Justice believes that there is a great likelihood that this provision would be held unconstitutional.

Juvenile Justice Block Grant. The Administration is concerned that the \$25 million Juvenile Justice Block Grant in the Committee bill may authorize a broad and unfocused range of spending, and urges the House to provide funding for more targeted activities, including direct funds for local prosecutors to target juvenile and quality of life crimes.

Narrowband Communications. The Administration is disappointed that the Committee has not provided the \$86 million requested to establish a fund for the consolidation and coordination of the Department's conversion to narrowband communications systems. We urge the House to establish such a fund and to restore the \$24 million in base resources that are excluded from the Committee mark.

Potential Amendment Related to Presidential Executive Orders

The Administration would strongly oppose an amendment that may be offered prohibiting the use of funds in the Act for implementing Executive Order 13087, dated May 28, 1998. The purpose of Executive Order 13087 is to confirm and make uniform the existing bar preventing the Federal government from discriminating against members of the Federal civilian workforce based on sexual orientation. The term "sexual orientation" has its common, limited and accepted meaning as in H.R. 1858, the Employment Non-Discrimination Act. Executive Order 13087 does not authorize affirmative action policies, such as recruitment, reporting, or goal-setting based on sexual orientation. Nor does it create any rights to file a complaint alleging discrimination on the basis of sexual orientation with a court or with the EEOC. The order leaves intact the current procedures for dealing with such complaints. The Administration objects to any effort to scale back policies that ensure federal workers are treated fairly. In particular, we object to any amendment that would allow discrimination based on sexual orientation.

The amendment would also prohibit the Federal government from implementing Executive Order 13083 on Federalism. The Administration strongly opposes this effort, which would block our efforts to ensure that

existing policies are consistent with recent Supreme Court decisions and unfunded mandates statutes and would inhibit our ongoing efforts to take into account important State and local concerns in Federal actions. After hearing concerns from representatives of State and local governments, the Administration last week announced it would delay implementation of the Executive Order for an additional 90 days in order to consult thoroughly with those groups about the content of the Order, and to make changes where appropriate.

International Affairs Programs

The Administration appreciates the Committee's support for the Department of State's Diplomatic and Consular Programs and Salaries and Expenses accounts. However, we are concerned about the Committee's reduction of \$26 million for the Department's operating requirements. Further, the Committee's reduction of \$38 million to the request for information technology improvements in the Capital Investment Fund would jeopardize the Department's effort to achieve Y2K compliance. In addition, limits placed on the amount of fees to execute the President's Border Security Program that can be used in FY 1999 could slow urgently needed border security improvements.

The Administration is very concerned about the Committee's \$245 million reduction to the request for Security and Maintenance of U.S. Missions. The Committee's mark does not fund construction of needed Embassy projects in Beijing and Berlin and would require offsets against regular security and maintenance activities to fund initial design work for these important projects. We request that the Committee provide a funding level consistent with the President's budget for urgently needed embassy facilities and ongoing security and maintenance programs, including Y2K-related activities.

The Administration appreciates the steps the Committee has taken to fund the request for arrearage payments this year. The Administration wants to work with the Congress to ensure that these funds are available in a timely fashion to retain our influence in these organizations and to identify reform measures that further U.S. interests. However, we strongly oppose the bill's authorization requirement that is intended to subject this important foreign policy measure to the unrelated issue of family planning policy. There is legitimate disagreement over this issue, but none of the U.N. and related international organizations arrears payments is related to this issue. Therefore, it is wholly inappropriate to hold the payment of U.S. arrears hostage to the family planning issue.

Further, although the Committee has provided significant funding for the Contributions to International Organizations (CIO) and Contributions for International Peacekeeping Activities for FY 1999, the Administration is concerned that reductions in these accounts would increase arrears and impair the ability of the United States to address foreign policy interests through the mechanism of U.N. peacekeeping.

The Administration opposes the Committee's proposal to provide up to \$15 million for Comprehensive Nuclear Test Ban Treaty needs by transfer from the CIO account without any increase in funding. We strongly believe that these important activities should be funded at the \$29 million level, as requested in the Nonproliferation, Anti-terrorism, Demining and Related Programs account.

The Administration is concerned about the \$21 million overall

reduction to the request for the U.S. Information Agency (USIA). Given that the USIA request is virtually at the FY 1998 level, the Committee's reduction would hurt core public diplomacy activities, Year 2000 compliance, critical broadcasting activities including broadcasting to Africa, and important grant programs. We urge the House to provide funding for USIA's operating and special accounts at the requested level.

The Administration is concerned about the Committee's reductions for the Arms Control and Disarmament Agency, the Asia Foundation, the American Institute in Taiwan, and the International Commissions. Such reductions would place a disproportionate burden on the operating budgets of these small agencies.

In addition, the Administration would strongly oppose an amendment that may be offered that would prevent intervention by the Justice Department and other agencies in certain U.S. court proceedings to seize property of foreign governments designated as state sponsors of terrorism. Such a measure likely would result in seizures of property in direct violation of U.S. statutory and treaty law and in giving priority to certain U.S. claimants over longstanding, legitimate claims by other U.S. citizens. It may also lead to judgements against the United States in favor of foreign governments, retaliation against U.S. diplomatic properties abroad, and seizure of property where the United States is claiming an interest in actual ownership of the property. Moreover, this provision would undermine the Administration's ability to protect the interests of the United States in U.S. courts.

Finally, the Administration would oppose an amendment that may be offered that would restrict efforts to challenge State, local, or tribal laws on the grounds that the law is inconsistent with an international commercial agreement, including any trade or investment agreement. The Administration is committed to cooperating closely with State, local, and tribal governments and taking into account their views in implementing agreements with respect to any matter that directly affects their interests. Further, neither World Trade Organization (WTO) dispute settlement panels, nor the WTO itself, has any power to compel the United States to change its laws or regulations, and such trade panel reports cannot form the basis for bringing suit in U.S. courts.

Federal Communications Commission

The Administration is very concerned about the lack of funding for any of the requested increases for the Federal Communications Commission (FCC). The Committee's funding level could require an agency-wide furlough or reduction-in-force, impairing the FCC's ability to implement the mandates of the Telecommunications Act of 1996 and to carry out critical mission operations.

Teamsters Election

The Administration objects to the continuation of last year's rider that prohibits the use of funds for supervising the Teamster's election, despite a court order requiring the Federal Government to pay for a supervised election.

Potential Objectionable Amendments

The Administration would strongly oppose the inclusion of the amendments discussed below. If the bill presented to the President were to include such language, the President's senior advisors would recommend

that he veto the bill.

The Administration understands that an amendment may be offered that would prevent the Federal Communications Commission from enforcing collections for the e-rate program to connect schools and libraries to the Internet. This amendment is unacceptable, for it could effectively end the e-rate program. The e-rate is a critical component of Universal Service, and promises to revolutionize American education and make access to the information age universal.

The Senate bill includes language that would undermine implementation of the Brady Act and National Instant Check System (NICS), and are unacceptable to the Administration. If offered, we urge the House to reject this language and continue to work with the Administration to keep guns out of the hands of criminals the mentally unstable and other prohibited purchasers.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:31-JUL-1998 12:04:34.00

SUBJECT: Re: Housing Vouchers and IDAs on 8/5

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:

See Nicole's concern re: IDAs/Head Start. HHS continues to be concerned.
Any thoughts?

----- Forwarded by Andrea Kane/OPD/EOP on 07/31/98 12:09
PM -----

Nicole R. Rabner

07/31/98 10:13:07 AM

Record Type: Record

To: Andrea Kane/OPD/EOP

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

Subject: Re: Housing Vouchers and IDAs on 8/5

Andrea, since the IDA provisions are attached to the Head Start bill in both the House and the Senate, and since the House Head Start reauthorization has become such a partisan, problematic bill, it would be unwise, I think, for the President to praise IDA without also: (1) talking about the importance of the Head Start program, and (2) saying that the House should stop playing politics with Head Start and pass a strong reauthorization bill in the bipartisan spirit demonstrated by the Senate.

Nicole

Message Copied

To:

Paul J. Weinstein Jr./OPD/EOP

Jonathan Orszag/OPD/EOP

Emil E. Parker/OPD/EOP

Jennifer L. Klein/OPD/EOP

Neera Tanden/WHO/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:31-JUL-1998 09:06:42.00

SUBJECT: FICA

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

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

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

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

TEXT:

We are about out of time on this issue. NGA opens tomorrow. Please give me status report ASAP. Thanks.

----- Forwarded by Mickey Ibarra/WHO/EOP on 07/31/98
09:05 AM -----

Fred Duval 07/30/98 10:01:31 PM

Record Type: Record

To: Mickey Ibarra/WHO/EOP

cc:

Subject:

for Sr staff - still no closure on FICA

Welfare Reform: Application of FICA to Workfare Jobs

Talking Points

- The President supports exempting workfare payments from FICA taxes, but wants to ensure that such action does not weaken worker protections.
- I understand that the IRS is very close to issuing a ruling on this subject. I know this ruling is long overdue, but I want you to know that we have been working hard toward this goal.

Background

Treasury and the IRS have prepared a draft notice stating that workfare positions are not subject to FICA taxes (workfare participants are already ineligible for the EITC as a result of a Balanced Budget Act provision). Governors have long sought this FICA exemption to help minimize the costs of running publicly-funded work programs for welfare recipients. However, organized labor is concerned that such a notice will provide support for legal challenges that worker protections do not apply to workfare. Through Department of Labor guidance issued in May 1997, the Administration had taken a firm stand that minimum wage and other labor protections apply to workfare positions.

The Treasury and Labor Departments are in the final stages of crafting language to try to minimize any effect on worker protections. While the labor unions will not be satisfied with this outcome, we still expect the Treasury Department to issue the ruling.

A year ago, after the President spoke to the NGA, he discussed this issue with several governors and told them that he supports exempting workfare payments from FICA taxes.

Summary of Draft Ruling

The draft ruling establishes a three-part test for whether workfare is subject to taxes:

- The only payments the individual receives for the work activity come directly from the state or local welfare agency, or its contractor.
- Payment is funded entirely by TANF and/or food stamps.
- Size of the payment is limited by welfare laws; and the number of hours is limited by the size of the payment divided by the minimum wage.

The ruling is based in part on IRS's 1971 "general welfare" doctrine, which states that "disbursements by a government to an individual under a legislatively provided social benefit program for the promotion of the general welfare, and that are not made basically for services rendered" are not subject to income or employment taxes.

The ruling states that a TANF payment may be made both for the promotion of the general welfare and as compensation for services, and it is not practically feasible to determine the relative proportion of each purpose. Therefore, it carves out the 3-part exception above for cases where the primary measure of the amount received is the state's welfare grant rather than the value of services performed.

The ruling has disclaimer: "No implication is intended as to ... whether an employment relationship exists under any other provision of law, including the Fair Labor Standards Act."

The ruling would be released by IRS as a "notice." The policy would be effective immediately (and would in fact apply retroactively). After considering public comments, the IRS would then issue a formal regulation.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:31-JUL-1998 17:17:53.00

SUBJECT: Treasury smuggling actions

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

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

READ:UNKNOWN

TEXT:

Treasury called with its preliminary assessment of executive actions it could take to combat smuggling. As you may recall, we asked Treasury whether it could require prominent, 2-letter state abbreviations marked on each cigarette package.

There is good and bad news. The bad news is that Treasury does not believe it can require the 2-letter state marking on each package to combat interstate smuggling. The Contraband Cigarette Trafficking Act is the applicable law. Treasury believes it is already making full use of the authority provided by CCTA, although with more resources it could step up enforcement. I also asked DoJ for help finding a statutory basis to require state markings. I haven't received DoJ's report.

The good news is that Treasury could do a lot more to combat international smuggling using chapter 52 of the Internal Revenue Code. These actions could be taken to prevent the loss of federal revenues. Specifically through rulemaking or EO we could:

1. Require exported cigarettes to be clearly marked export-only.
2. Prohibit the reentry of exported cigarettes, which is currently allowed.
3. Increase the "proof requirements" for exported product. e.g., who is going to receive the cigarettes
4. Require tracking marks for exported cigarettes.
5. Tighten up the rules on allowable carriers and quantities for exported cigarettes. e.g., current law allows exports to be carried by fishing vessels -- we could prohibit that.

Treasury is still vetting these proposals internally and will have a written report next week.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:31-JUL-1998 11:44:51.00

SUBJECT: Tobacco farmers-- update

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

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

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

TEXT:

Sorry about the botched last message everyone. The companies have been buying very little of the farmers' tobacco in the early sales thus far, creating anxiety in their community. I was dropping a line to tell you that tobacco companies and farmers were on the hill yesterday reportedly meeting with Faircloth as they attempted to negotiate increases in future tobacco sales. The farmers feel they are in a very precarious position and would like to help push something.

Senator Robb's office called offering to sponsor something that would supplement an AG settlement -- such as the equivalent of an additional 40 cent per pack increase that would do FDA, counteradvertising, repay some federal health costs and, of course farmers.

Senator Ford's office suggests conveying to Easley that he should not be negotiating a settlement that does not include farmers. Ford tried putting together a deal including the tobacco states including \$20 billion for farmers over 25 years. Whatever figure we believe is right, they'd like the WH to convey that we think there should be money put aside to protect farmers as the markets decline.

Waxman

Cynthia and I had suggested to Waxman that in order to solve his problem (of looking for a no-cost provision they could add for farmers) Waxman consider including a domestic tobacco purchase requirement in their tobacco bill. E. Drye faxed over some language. USDA has now reviewed that language, says it looks fine in terms of making the companies buy domestic tobacco but as expected, would have serious GATT problems. They don't have any better alternative that comes at no cost. I would suggest that Waxman reach out to Etheridge and see what they suggest and if they would prefer this included in the bill.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:31-JUL-1998 14:10:19.00

SUBJECT: AGs - tobacco

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

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

CC: 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

TEXT:

FYI:

----- Forwarded by Kevin S. Moran/WHO/EOP on 07/31/98
02:09 AM -----

Mickey Ibarra
07/31/98 01:51:34 PM
Record Type: Record

To: Erskine B. Bowles/WHO/EOP, Maria Echaveste/WHO/EOP, John
Podesta/WHO/EOP
cc: Kevin S. Moran/WHO/EOP
Subject: AGs - tobacco

I thought you should see the report below.

----- Forwarded by Mickey Ibarra/WHO/EOP on 07/31/98
01:50 PM -----

Fred Duval 07/31/98 01:36:36 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Mickey Ibarra/WHO/EOP
cc: William H. White Jr./WHO/EOP
Subject: AGs - tobacco

I just heard from Chris Greggiore (and also from Tom Miller). The drafting team worked all night to put on paper agreements reached so far, and proposals for remaining issues. The money is largely settled, but public health issues remain, and she specifically pointed out her concern with the behavior of the non-participating manufacturers. The "recess" is to allow the cigarette negotiators a chance to brief their CEOs and get some further guidance. They have every expectation of resuming talks Wed or Thursday.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:31-JUL-1998 13:29:57.00

SUBJECT: Title IX

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

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

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

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

TEXT:

Chris Jennings and I had a conference call with representatives of the Catholic Hospital Association this morning. The Catholic Church has no moral objection to a medical procedure that is necessary to save a woman's life, even if, as a consequence, a pregnancy is terminated.

As we discussed earlier, there is a reasonable basis for concluding that Congress intended to require institutions covered by Title IX to provide abortions under those circumstances. Consequently, it appears that a regulation can be drafted that is consistent with Congressional intent on this point and that does not create a conflict with the teachings of the Catholic Church. I will convey this information to DOJ and work with them on drafting language. Please let me know if you have suggestions as to how we should proceed.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Steve B. Chu (CN=Steve B. Chu/OU=PIR/O=EOP [PIR])

CREATION DATE/TIME:31-JUL-1998 19:03:14.00

SUBJECT: July 24-31

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

TO: Laura K. Capps (CN=Laura K. Capps/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: Laura K. Demeo (CN=Laura K. Demeo/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: Robert B. Johnson (CN=Robert B. Johnson/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: Sidney Blumenthal (CN=Sidney Blumenthal/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: Peter Rundlet (CN=Peter Rundlet/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

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

TO: Susan M. Liss (CN=Susan M. Liss/O=OVP @ OVP [UNKNOWN])
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: edley (edley @ law.harvard.edu @ INET @ LNGTWY [UNKNOWN])
READ:UNKNOWN

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

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

TO: Oliver G. McGee (CN=Oliver G. McGee/OU=OSTP/O=EOP @ EOP [OSTP])
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

TO: Trooper Sanders (CN=Trooper Sanders/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

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

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

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

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

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

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

TEXT:

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

TEXT:

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MEMORANDUM TO THE PRESIDENT

FROM: JUDITH A. WINSTON

THROUGH: ERSKINE BOWLES
MARIA ECHAVESTE

DATE: JULY 31, 1998

SUBJECT: PRESIDENT'S INITIATIVE ON RACE WEEKLY REPORT
JULY 24 - JULY 31

ADVISORY BOARD ACTIVITIES

Letter on June Advisory Board Meeting. We have submitted a letter to you reporting on the June Advisory Board meeting, held June 17-18 in Washington, D.C. A copy of this letter is attached.

Meeting with Canadian Government Representatives. On July 28, Advisory Board member Linda Chavez-Thompson, Initiative staff, Maria Echaveste, and **Minyon Moore met with Raymond Chretien**, Canadian Ambassador to the United States, and Dr. Hedy Fry, the Secretary of State for Multiculturalism in Canada's Ministry of Canadian Heritage. Canada has had an official multiculturalism policy and program since 1971. Its three goals are civic participation, social justice, and fostering a society that respects diversity. In the past few years, the Canadians have focused on youth, with a yearly national competition involving young people who produce videos about fighting racism. The multiculturalism program is planning to expand its youth outreach to include a year-long program that will culminate on March 21, 2000, with young people around the nation providing recommendations to the Prime Minister for ensuring racial harmony in Canada. They indicated that they are working on this effort with South Africa, which will have a similar program during that year.

National Association of Black Journalists Forum. On July 29, Dr. John Hope

Franklin gave the keynote address to a group of 500 journalists at the National Association of Black Journalists 23rd Annual Convention in Washington D.C. Chris Edley and senior Initiative staff participated in a panel discussion following Dr. Franklin's address. The panel discussed the images of minorities in the media, the effect of the media upon race relations and the importance of diversity in news organizations. A report entitled *Mass Media and Reconciliation* was released at the convention. It examines media images of major racial and ethnic groups in the United States.

University of Southern California. On July 31, Angela Oh gave the keynote address at the University of Southern California's undergraduate student orientation in Los Angeles, California.

OFFICE OF THE EXECUTIVE DIRECTOR

Council for Tribal Employment Rights. On July 28, a senior staff member gave the keynote address to 200 tribal leaders and officials at the 1998 National Forum on Indian and Native Employment in Denver, Colorado. We provided an overview of and update on the Initiative and described the Indian economic development conference scheduled for August 5-6, 1998 in Washington D.C.

Meeting with Irish Youth. On July 29, staff spoke to a group of 70 students from Northern Ireland who are participating in the "Breaking Down the Walls and Bridging the Gaps" program. The program, which is based in Washington D.C., promotes unity and problem solving for Protestant and Catholic youth.

FEDERAL AGENCY ACTIVITIES

Department of Interior

Miccosukee Everglades Agreement. On July 29, Secretary Babbitt issued a press release on the legislative proposal agreed to by DOI and the Miccosukee Tribe to resolve the Tribe's land issues in Everglades National Park. If passed, S. 1419 as amended, would double the size of the Tribe's present "Reserved Area," in perpetuity within the boundaries of the Park. This would allow the Tribe to construct housing and develop economically. The agreement specifically prohibits gaming in the Reserved Area. S. 1419 also provides assurances to protect water quality and public review of all construction to assure appropriate environmental protection.

Department of Agriculture

USDA and NAACP Joint Venture. During the 89th Annual Convention of the NAACP, USDA and the NAACP entered into a joint venture to develop strategies to stem agricultural-related problems that disproportionately affect African-American farmers. USDA and the NAACP have established advisory councils to coordinate and develop a plan of operation.

Department of Commerce

National Minority Supplier Development Council Convention. Minority Business Development Administration (MBDA) Director Cox was the featured luncheon speaker at the 15th Annual Convention of the National Minority Supplier Development Council, in Lake Buena Vista, FL. Director Cox's speech focused on the Census Bureau's demographics, electronic commerce and systems that add value to the MBDA services for minority entrepreneurs.

Department of Housing and Urban Development

SCLC. On July 28, Secretary Cuomo addressed the Southern Christian Leadership Conference's 41st Annual Convention, focusing on economic disparity in America's cities and the impact of race on housing and job creation. The convention was also highlighted by the inauguration of Martin Luther King III as President of the SCLC.

La Raza. On July 22, Assistant Secretary for Fair Housing and Equal Opportunity Eva Plaza spoke to the National Council of La Raza. Attendees at the conference lauded HUD's accomplishments in working to close the opportunity gap and work towards One America.

Welfare. Secretary Cuomo said a report showing that whites are leaving the welfare rolls much faster than African Americans and Hispanics shows the need for the initiatives proposed for HUD's 1999 budget to close the opportunity gap separating whites from minorities. The report in the July 27 *New York Times* says "black and Hispanic (welfare) recipients combined outnumber whites by about 2-1" and found that "minority recipients were much more likely to live in poor, central city neighborhoods, far from the job growth that rings many cities." The proposed \$25 billion HUD budget calls for an intensified effort to revitalize communities, create jobs, produce affordable housing and expand home ownership.

Department of Energy

Cultural Awareness Workshop. Forty DOE and laboratory employees will attend the second American Indian Cultural Awareness Workshop on August 4. Governor Joseph Henry Suina of Cochiti Pueblo will lead the discussion at the Cochiti Pueblo's tribal council chambers.

Environmental Protection Agency

Civil Rights Act Title VI. EPA's Civil Rights Act Title VI Implementation Advisory Committee held its second meeting in Philadelphia on July 27-28. The two-day session began with a committee fact-finding visit to Chester, PA, a community that has filed a lawsuit under Title VI of the Civil Rights Act of 1964 alleging discrimination by the PA Department of Environmental Protection in its permitting programs. Following the site visit, the committee attended a presentation by the city of Detroit regarding Mayor Archer's and the Detroit business community's concerns regarding EPA's *Interim Guidance for Investigating Title VI Administrative Complaints Challenging Permits*. Similar concerns were raised by other mayors in a meeting with Administrator Browner that was hosted by Mayor Archer in Detroit on July 17.

The committee's next meeting will take place in Tucson, AZ, on October 18-20. The Tucson meeting will provide the committee with an opportunity to interact with predominantly Hispanic and American Indian communities and to hear their concerns regarding Title VI.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:31-JUL-1998 13:13:01.00

SUBJECT: NAS report on single food agency and Exec. Order

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

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

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

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

TEXT:

Attached is a draft executive order establishing a Food Safety Council. The Council consists of the Secretaries of USDA, HHS, the DPC, and OSTP. HHS and USDA co-chair and they would appoint an exec. director. It is charged with developing a unified food safety budget, a unified food safety strategy, reviewing the NAS report and making recommendations, and overseeing the research institute. We have discussed this concept (but not the actual paper) with USDA and FDA, some people in each agency have reservations about it, and would likely prefer not to preempt NAS, but to instead wait and see what it says and what reaction it gets. OMB will also have concerns and will want time to vet it. If you are interested in circulating it, I have some thoughts on how to process it.

Other Information

The NAS report: According to sources, it is still on target for release August 17. It is still said to be critical of the current structure of food safety and includes criticism of food safety planning, budget and standard setting. It reportedly suggests action on dietary supplements, critiques current epidemiology, and criticizes the mixing of missions of promoting food and regulating it. It also cites specific recent examples including Guatemalan raspberries and the salmonella in cereal.

Other Steps.

We've asked the agencies to come up with other steps that could be announced independently or in conjunction with the above announcement. Here is what they suggest.

1. Eggs. The agencies say they could be ready to announce the shifting of responsibility for eggs to USDA, previously it was split between FDA and USDA.
2. Achievements. The agencies have prepared a list of areas in which they do cooperate successfully.
3. Vision statement and public hearings. The agencies have a shared "vision statement" on creating a "seamless food safety system" that they would put in the federal register and hold public hearings on.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Thomas Freedman to Elena Kagan, et al. Subject: NAS report on single food agency and Exec. Order [partial] (1 page)	07/31/1998	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[07/31/1998]

2009-1006-F
ke752

RESTRICTION CODES

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

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

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

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

RR. Document will be reviewed upon request.

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

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

P6(b)(6)

[001]

P6(b)(6) ===== ATTACHMENT 1 =====

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

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EXECUTIVE ORDER

PRESIDENT'S COUNCIL ON FOOD SAFETY

By the authority vested in me as President by the Constitution and the laws of the United States of America, and in order to strengthen efforts to improve food safety for American consumers by establishing a President's Council on Food Safety, it is hereby ordered as follows:

Section 1. Establishment of President's Council on Food Safety.

(a) There is established the President's Council on Food Safety (Council). The Council shall comprise the Secretary of Agriculture, the Secretary of Health and Human Services, the Assistant to the President for Domestic Policy, and the Director of the Office of Science and Technology Policy. The Council shall consult with representatives of the National Partnership for Reinventing Government, the Office of Management and Budget, the Environmental Protection Agency, the Department of Defense, the Commerce Department, and such other senior executive branch officials as the Council determines.

(b) The Secretaries of Agriculture and Health and Human Services shall serve as Co-Chairs of the Council. In consultation with other Council members, the Secretaries shall jointly designate an Executive Director for the Council. Council members may designate senior executive branch officials as their representatives.

Section 2. Purpose.

The purpose of the Council is to strengthen ongoing efforts to develop and implement a science-based comprehensive strategy to improve the safety of the food supply, including enhanced coordination among Federal agencies and with State, local governments and the private sector. The Council shall build upon the President's Interagency Food Safety Initiative and shall consult extensively with all concerned parties, including consumers, producers, industry, academia, and State and local governments.

Section 3. Specific Activities and Functions.

(a) The Council shall annually develop a unified food safety budget to eliminate duplication and ensure the most effective use of resources. This unified food safety budget shall include food safety surveillance, inspection, risk assessment, education, and research.

(b) The Council shall develop a science-based, unified plan for improving food safety from the farm to the table. The fundamental goal of the plan should be the establishment of a seamless food safety system, including the steps necessary to achieve this goal, and should consider key public-health, resource, and management questions facing Federal food safety agencies. The plan should consider both interim and long term food safety issues, including new and emergent threats and the needs of vulnerable populations. The plan should include education, inspection,

research, surveillance, and should also ensure effective coordination of Federal, State, local, and private resources to improve food safety, including public-private partnerships, where appropriate

(c) The Council shall oversee the operation of the Joint Institute on Food Safety Research, and shall ensure that the Institute focuses on addressing the high priority research needs identified in the unified food safety plan. The Council shall also ensure that the Institute issues a report annually and holds regular public conferences and meetings regarding food safety research developments and findings, including research conducted by the private sector and academia.

(d) The Council shall review the National Academy of Sciences report, "Ensuring Safe Food from Production to Consumption", and other reports on the effectiveness of the current food safety system. After providing opportunity for public comment, including public meetings, the Council shall report to the President with recommendations for appropriate additional actions to improve food safety. Any such recommendations should be in the context of the strategic planning effort of the President's Interagency Food Safety Initiatives.

Section 4. Cooperation.

All actions taken by the Council shall, as appropriate, further partnerships and cooperation with other public and private sector efforts wherever such partnerships and cooperation are possible and would further improve the safety of the food supply.

Section 5. Judicial Review.

This order does not create any right or benefit, substantive or procedural, enforceable at law by a party against the United States, its agencies, its officers, or any person.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:31-JUL-1998 16:46:27.00

SUBJECT: From Cynthia R: Sperling needs FICA background for Dem gov mtg tomorrow.

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

CC: 4697 (4697 @ WHCA [UNKNOWN])
READ:UNKNOWN

TEXT:

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:31-JUL-1998 12:58:14.00

SUBJECT: Press paper for Monday

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

I've been working with Chuck Marr and Bob Shireman on the Labor/HHS event for Monday. Attached is a draft of the paper we've put together. It is essentially a brief, state-by-state version of the paper we put out earlier this week; we've used state level numbers where we have them, and national numbers where we don't.

We are trying to get the paper done today, in part because each of us is gone for the weekend. Its not entirely clear if this is to be a DPC or an NEC event, so the review/clearance procedures for the paper aren't clear either. I thought you ought to see this, though there is little new in it.

Finally, I've sent Chuck the following edit on the class size bullet at the end of the attached paper:

\$X to Y to help reduce class size in the early grades and give students personal attention and a strong foundation in the basic skills.

----- Forwarded by Michael Cohen/OPD/EOP on 07/31/98
12:52 PM -----

Charles R. Marr

07/31/98 11:07:33 AM

Record Type: Record

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

cc:

Subject: revised template draft

Here is a revised draft of the template. Pls send comments/clearance ASAP.

Pls take a look specifically at the heading on the bottom for class size/school modernization. (we want to criticize them but not imply proposals are dead) Thoughts?

Message Sent

To:

Robert M. Shireman/OPD/EOP

Michael Cohen/OPD/EOP
Linda Ricci/OMB/EOP
Barbara Chow/OMB/EOP
Jake Siewert/OPD/EOP
Jonathan A. Kaplan/OPD/EOP
Larry R. Matlack/OMB/EOP
Jonathan H. Schnur/OPD/EOP

===== ATTACHMENT 1 =====
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President Clinton and Vice President Gore Supporting Investments in the Young People of STATE

August 3, 1998

Congress Retreats from Support for Education and Youth

Republicans in the House of Representatives are advancing a bill that denies educational and training opportunities to the young people of X. The House Labor-HHS-Education Appropriations bill, which will soon be voted on, cuts \$3.3 billion from the President's education and training priorities.

The House Republican Bill:

- **Eliminates the \$871 million Summer Jobs program.** X disadvantaged young people in Y would be denied the opportunity to gain skills and valuable work experience over the summer months. Studies show that the Summer Jobs initiative works. A 1995 report concluded that more than three out of four young people enrolled in the program would have been jobless without it, especially 14-15 year olds.
- **Retreats from the nation's commitment to raise academic standards.** President Clinton has proposed to help states, local communities and schools raise academic standards through the development of voluntary national tests in the basic skills, and through the Goals 2000 program. The House bill denies 6,000 schools nationwide funds to help students reach high standards and would halt development of voluntary national tests in 4th grade reading and 8th grade math.
- **Cuts Head Start.** Denies slots to X low income children in Y.
- **Eliminates funds for reading tutors.** The House bill eliminates \$260 million for the America Reads Challenge, denying funding to schools and communities to improve reading programs and provide tutors to students who them.
- **Denies funds for after-school programs.** The House bill reduces the President's request for the 21st Century Community Learning Centers program by \$140 million, denying approximately 425,000 school-age children participation in before- and after-school programs.
- **Denies disadvantaged students help in the basic skills.** The House bill denies funds to help an additional X educationally disadvantaged students in Y master the basic skills, by cutting the President's request for Title 1 by almost \$400 million.
- **Slows progress in putting computers in the classroom.** The House bill denies funding to 400 school districts nationwide to provide students and teachers with access to computers and deny specialized technology training to a large number of new teachers first entering the classroom.
- **Eliminates funding to prepare disadvantaged children for college.** The House bill denies more than one million (over 5 years) at-risk middle school students the mentoring and tutoring to raise education expectations, and eliminate barriers to college, by denying \$140 million for the High Hopes program.
- **Eliminates funding for middle school safety coordinators.** The House bill denies 6,500 middle schools throughout the nation with \$50 million that would provide full-time Safe and Drug-Free Schools Coordinators.
- **Eliminates Low Income Home Energy Assistance (LIHEAP).** X low-income families in Y will be denied help to pay for home energy costs.

Republicans in Congress have ignored the President's proposed investments in modernized schools and smaller classes. Congressional inaction will deny:

- \$X in bonds to Y to help rebuild, modernize, and build new schools in the state.

- \$X to Y to help reduce class sizes by adding new teachers to help students improve their ability to learn.

Automated Records Management System
Hex-Dump Conversion

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:31-JUL-1998 12:41:00.00

SUBJECT: one more thing re: casloads

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

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

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

TEXT:

The reason HHS is not asking for caseloads from states every month is that states are reporting this data quarterly as part of their regular TANF data reporting, but that is the information that HHS and the states are still working out glitches on. In the meantime, I see no reason HHS can't continue calling states for the numbers -- the states certainly have the information.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:31-JUL-1998 15:17:44.00

SUBJECT: Proposed language on Wellstone amendment

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:

OMB proposed to add a description of the amendment (which I think is fine) and made some edits to our proposals. I plan to send them these changes to restore it to the statement we suggested -- unless you tell me otherwise.

The Senate bill contains a provision amending the Temporary Assistance for Needy Families program (TANF). It would expand the type and length of education programs that can be counted toward a State's "work activity" participation rate. The provision would also extend the FY98 and FY99 exclusion of teen parents from the cap on education programs that can be counted toward a State's "work activity" participation rate to FY2000 and beyond. The Administration strongly supports the TANF goal of enabling more welfare recipients to move from welfare to work. We look forward to working with conferees to ensure that the final legislation recognizes the role of education in meeting this goal keeps the doors of college open to all Americans while still maintaining the welfare law's strong work focus [was "requirements" but I think "focus" is ok].

----- Forwarded by Cynthia A. Rice/OPD/EOP on 07/31/98
02:52 PM -----

Constance J. Bowers

07/31/98 02:49:41 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc: See the distribution list at the bottom of this message
Subject: OMB Proposed Revised TANF parag. for ED conferee letter on HR 6

Following is a reformulation of the Wellstone paragraph for the ED letter to conferees on HR 6, the Higher Education bill. It has been cleared by Barry and Barbara.

Please let me know by 5:00 p.m. today if this language is acceptable so that I can circulate it to ED and HHS for concurrence.

The Senate bill contains a provision amending the Temporary Assistance for Needy Families program (TANF). It would expand the type and length of education programs that can be counted toward a State's "work activity" participation rate. The provision would also extend the FY98 and FY99 exclusion of teen parents from the cap on education programs that can be counted toward a State's "work activity" participation rate to FY2000 and beyond. The Administration strongly supports the TANF goal of enabling more welfare recipients to move from welfare to work. We look forward to working with conferees to ensure that the final legislation recognizes the role of education in meeting this goal, while still maintaining the welfare law's strong work focus.

Message Sent

To: _____

Cynthia A. Rice/OPD/EOP
Andrea Kane/OPD/EOP
Robert M. Shireman/OPD/EOP
Elena Kagan/OPD/EOP
William H. White Jr./WHO/EOP
Doris O. Matsui/WHO/EOP

Message Copied

To: _____

Barbara Chow/OMB/EOP
Sandra Yamin/OMB/EOP
Barry White/OMB/EOP
Anil Kakani/OMB/EOP
Jack A. Smalligan/OMB/EOP
Larry R. Matlack/OMB/EOP
Maureen H. Walsh/OMB/EOP
Daniel J. Chenok/OMB/EOP
Daniel I. Werfel/OMB/EOP
Janet R. Forsgren/OMB/EOP
Melinda D. Haskins/OMB/EOP
James J. Jukes/OMB/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:31-JUL-1998 16:46:53.00

SUBJECT: Pls review paper in your WW office (also on your email). CR

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

CC: 4697 (4697 @ WHCA [UNKNOWN])
READ:UNKNOWN

TEXT:

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:31-JUL-1998 17:36:32.00

SUBJECT: Latest on House tobacco

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

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

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

TO: 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

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

TEXT:

House GOP Delays Teen-Smoking Bill

By DAVID ESPO
Associated Press Writer

WASHINGTON (AP) -- House Republicans have sidetracked legislation to curtail teen smoking at least until September, according to congressional officials, amid internal debate over whether to abandon the measure entirely.

As recently as two weeks ago, Speaker Newt Gingrich told reporters an anti-smoking bill would be passed by the time lawmakers recess Aug. 5 for a month-long break. Key lawmakers were close to agreement on proposed legislation.

But officials said that by last week, an increasing number of Republicans had become persuaded that the issue had effectively died in the Senate earlier this year, and was rapidly diminishing as an election-year concern among voters.

At the same time, they said, GOP leaders had so watered down the measure that Rep. Deborah Pryce, the Ohio Republican who has been chairing a task force charged with drafting the bill, was expressing discomfort with the product.

"A growing number of people really want to see what happens" when they return home and hear from voters, Ms. Pryce said Friday.

As for herself, Pryce said, "I'm going to keep pressing the issue when we return. It might not be on the political radar screen, but I think teen smoking is a problem and this Congress should take responsibility" for legislation.

Democrats seized on the development as evidence that Republicans are beholden to the tobacco industry, which has donated millions to GOP campaigns in recent years. ``I think the tobacco companies have won the day,' ' said Laura Nichols, spokeswoman for House Minority Leader Dick Gephardt, D-Mo. ``They don't want to have another round of debate, and that's reflected in their (Republicans') decision not to introduce a bill and have a debate before we leave for August.'

Gingrich spokeswoman Christina Martin said the GOP leadership will ``revisit the issue when we return' ' in September.

The draft GOP House bill would rely largely on expanded government regulation of tobacco manufacturing and advertising as well as a public advertising campaign and restrictions on vending machines to curb teen smoking. It includes no tax increases to drive up the cost of cigarettes, nor provisions to penalize tobacco companies that fail to meet smoking reduction targets.

Nor does it include any of the protections from lawsuit liability that the tobacco companies favor.

Several Republicans, speaking on condition of anonymity, said that among top GOP leaders, Gingrich was the strongest advocate of going ahead with the measure, and was under pressure from others to reverse course.

Earlier this year, Republicans worried that the drive by the White House and Democrats for legislation aimed at reducing teen smoking could cause them problems this fall.

But in a pitched battle on the Senate floor, a bill to raise the price of cigarettes by more than \$1 a pack died when critics complained it was a ``tax and spend' ' prescription for the problem of underage smoking.

Since then, numerous public opinion polls have indicated the issue does not rank high on the list of public concerns in the run-up to the election.

Rep. John Linder of Georgia, chairman of the GOP campaign committee and a participant in House leadership meetings, said he has opposed bringing a bill to the floor. ``The public generally believes ... that tobacco smoking is voluntary,' ' he said.

Other Republicans take a different position.

At one meeting where the issue was discussed, Rep. Jim Greenwood, R-Pa., recalled, ``I argued that to do nothing is bad politics, because even though this issue is not Number 1 on everybody's radar screen, we'd be vulnerable to attack ads that we are too cozy with tobacco, which is not true.'

Further complicating efforts to bring legislation to the floor was a split within the Republican ranks that makes it difficult to achieve a majority. Some Republicans favor a tax increase, or penalties for tobacco companies that fail to meet preset smoking reduction guidelines. Others, from tobacco states, favor little or no government intervention. Few, if any Democrats, were

viewed as likely to join in helping to pass a Republican bill following Gingrich's rejection earlier this year of a proposed bipartisan measure.

Gingrich himself has not addressed the issue recently in public.

But as long ago as last January, when Clinton called for a bill to curb teen smoking as part of his State of the Union address, the speaker said Republicans legislate on the issue.

On the day after the Senate bill died, Gingrich and Ms. Pryce called a news conference to announce that House Republicans would soon unveil a slimmed-down tobacco bill. Regarding Democrats who said in advance that the GOP bill would accomplish little, Gingrich said bitingly at the time:

``I would hope that they not be drawn into letting children become addicts because they'd rather have the issue this fall.''