

NLWJC - KAGAN

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[8/26/1998]

Withdrawal/Redaction Sheet

Clinton Library

| DOCUMENT NO. AND TYPE | SUBJECT/TITLE | DATE | RESTRICTION |
|--------------------------|--|------------|-------------|
| 001. email | Leanne Shimabukuro to Laura Emmett and Elena Kagan. Subject: briefing [partial] (1 page) | 08/26/1998 | P6/b(6) |

COLLECTION:

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

FOLDER TITLE:

[08/26/1998]

2009-1006-F
ke755

RESTRICTION CODES

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

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

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

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

RR. Document will be reviewed upon request.

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

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-AUG-1998 18:29:53.00

SUBJECT: revised education paper for Monday's event

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Attached is a revised 1-pager, based on our conversation this afternoon about how to better focus Monday's message document. Does this look like its in the right ballpark from your perspective?

Note that the text itself needs significant editing still, but there is still time for that. I'll turn to that tomorrow, once we've got a sense that the basic format is on track.

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D12]MAIL41301083S.226 to ASCII, The following is a HEX DUMP:

FF575043EA0D0000010A02010000000205000000624900000020000157C5EBF2049FA849F980B
8B4E87C1A613C1ACD1E5D3B28646BF0210ECC1ED743CD45DFDFF9EB6DD96F2D932065AC655065A
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424C786FE00C7E3EED4BE56E6237160FC9A3D7D1787F4BFBDDDF102F86C2C70F0C9E38D60EE576

PRESIDENT CLINTON'S EDUCATION AND TRAINING PRIORITIES FOR THE FALL

President Clinton challenged Congress to take the steps necessary to prepare our students and our country for the 21st Century, by enacting his proposals to strengthen and invest in public education, expand access to higher education, and provide those who need it with the training needed to succeed in the workplace.

1. **SCHOOL MODERNIZATION.** President Clinton is committed to ensuring that we help prepare all students for the future, by providing them with safe, modern school buildings, small classess and access to up-to-date technology.
 - **School Modernization Tax Credits.** To help rebuild, modernize and build over 5,000 public schools, President Clinton will work with the Congress to pass Federal tax credits to pay interest on nearly \$22 billion in bonds at a cost of \$5 billion over five years.
 - **Reducing Class Size.** President Clinton is committed to helping local schools provide smaller classes with well-prepared teachers in the early grades. The initiative would provide \$12.4 billion over seven years to reduce class size in grades 1-3 to a nationwide average of 18 and help make sure that every child receives personal attention, gets a solid foundation for further learning, and learns to read independently and well by the end of third grade.
 - **Education Technology: Preparing for the 21st Century.** The Clinton Administration has made an unprecedented commitment to bringing technology into the classroom. President Clinton and Vice President Gore are committed to ensuring that all children are technologically literate by the dawn of the 21st century, equipped with the communication, math, science, reading, and critical thinking skills essential for enhancing learning and improving productivity and performance. The House-passed appropriations bill eliminates \$75 million for technology Teacher Training and would deny specialized training to a large number of new teachers entering the profession, to help them learn to most effectively use technology to strengthen instruction and enhance student learning. The House-passed appropriations bill cuts \$75 million from the President's request, and would deny funding to 400 school districts to provide students and teachers with access to classroom computers, training and the latest educational software and telecommunications technology to improve teaching and learning in the core subjects.

2. **PASSING HIGHER EDUCATION REAUTHORIZATION ACT.** Congress must pass the reauthorization of the Higher Education Act. Passed in different forms by both Houses, this bill would reduce interest rates on student loans, consistent with the Administration's proposal announced by the Vice President earlier this year. It will also extend the Pell Grant program, which provides billions of dollars in college aid for low income students, and the Federal Work-Study program, which helps students work their way through college. President Clinton will also work to ensure that the Higher Education Act includes his High Hopes mentoring initiative, to inspire more of our young people to have high expectations, to stay in school, and to go to college, as well as his proposal to strengthen teacher training programs and provide scholarships to 35,000 well-prepared teachers who commit to teaching in underserved urban or rural schools. He will also work with Congress to include new proposals to strengthen accountability for teacher education programs.
3. **PASSING AUTHORIZATION AND FUNDING FOR EARLY LITERACY.** More than two years ago President Clinton proposed the America Reads program, to mobilize an army of volunteer tutors to help all children read independently and well by the end of the third grade. In the Balanced Budget Agreement, the Congress pledged to fund an early literacy initiative based on this proposal. It is time that Congress keeps its commitment. The literacy bill, now pending in Congress, would ensure that children receive quality instruction from well-trained teachers and have opportunities to practice and further develop their reading skills after school and on weekends with trained tutors. It would also ensure that families receive the support they need to help our youngest children develop necessary language and literacy skills from infancy so that when they get to school they are ready to learn to read.
4. **STRENGTHENING AND EXPANDING CHARTER SCHOOLS.** The President will work with Congress this fall to complete work on bipartisan legislation to strengthen federal support for the growing charter schools movement, to help meet his goal of establishing 3,000 high-quality charter schools by early in the next century. Last year, the House of Representatives passed a bill with bipartisan support to direct federal resources for charter schools to states that increase the number of charter schools, provide them with maximum flexibility, and periodically review their performance. The Administration has worked with Senators of both parties to strengthen the bill to increase accountability for academic performance in charter schools and ensure that charter schools receive their fair share of other federal education funds. The President will call on Congress to send him legislation that meets these goals before the end of the session.
5. **MAKING NEEDED INVESTMENTS IN EDUCATION AND TRAINING.** President Clinton will work to restore more than \$2 billion in Congressional cuts to his proposed investments to strengthen public schools, expand access to higher education, and invest in

preparing our youth to enter the workforce:

- **Title I (Education for the Disadvantaged).** The President will fight the Republican efforts to cut \$392 million in grants to high-poverty school districts, which would mean that 520,000 students in high-poverty communities would not get extra help to master the basics and meet high-academic standards.
- **Goals 2000.** The President will fight Republican efforts to cut by \$255 million (51%) Goals 2000, reversing support for efforts to raise academic standards, affecting 6,000 schools serving over 3 million students.
- **Education Opportunity Zones.** The President will fight for his Education Opportunity Zones initiative, which would help high-poverty urban and rural communities increase student achievement by raising standards, improving teaching, ending social promotions, and turning around failing schools.
- **Safe and Drug-Free Schools and Communities.** The President will fight Republican efforts to cut Safe and Drug-Free Schools by \$50 million, eliminating funding for School Coordinators to help fight drug and alcohol abuse and increase school safety.
- **After-School Programs.** The President will work to ensure that Congress fully funds his efforts to strengthen after-school programs. The House Republicans provide \$140 million less than the President's request, which would deny about 425,000 children access to safe learning centers.
- **Expanding Head Start.** President Clinton is committed to ensuring that children enter school readying to learn -- that is why he will continue to press Congress to fully fund his request for Head Start. The President will work to restore the \$160 million House Republicans underinvest in Head Start -- which would deny slots to 25,000 low-income children.
- **School-to-Work.** The President will work to ensure that House Republicans do not cut School-to-Work by \$100 million, seriously hampering efforts in all States to help young people move from high school to careers or postsecondary training and education.
- **Summer Jobs.** Up to 530,000 disadvantaged young people would be denied the opportunity to gain skills and valuable work experience over the summer months, if the House Republican budget plan passes. The President is absolutely committed to ensuring that all of the money for the summer jobs program is restored because 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.
- **Hispanic Education Action Plan.** Because the education of Hispanic Americans requires special attention -- their high school drop-out rate, for example, is unacceptably high -- President Clinton is committed to ensuring that his \$xxx million Hispanic Education Action Plan is fully funded. This action plan provides for the increased investments necessary to help students master the basic skills (Title 1), and become proficient in English (Bilingual ed), help schools implement research-proven

reforms to reduce drop-out rates (Comprehensive School Reform), help adults receive basic skills training and participate in English-as-a-second-language programs (Adult Ed), and provide assistance to colleges and universities that serve large numbers of Hispanic students.

*Automated Records Management System
Hex-Dump Conversion*

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-AUG-1998 12:55:23.00

SUBJECT:

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

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

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

TEXT:

I have learned that Atty Gen Mike Moore and Dick Scruggs have opened up some discussions with tobacco about the prospects of a broader settlement that would include the federal government Medicaid claims. Scruggs has or will be calling Erskine to seek his thoughts on this.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jordan Tamagni (CN=Jordan Tamagni/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:26-AUG-1998 17:33:18.00

SUBJECT: Resend w/out computer gibberish --comments back asap

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

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

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

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

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

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

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

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

TEXT:

Revised Draft 8/25/98 6:00pm
Jordan Tamagni

PRESIDENT WILLIAM J. CLINTON
REMARKS FOR SCHOOL SAFETY EVENT
MECHANICS HALL
WORCESTER, MASSACHUSETTS
August 26, 1998

Acknowledgments: Mayor Raymond Mariano; Sen. Kennedy; Rep. McGovern;
State Attorney General Scott Harshbarger; Chief of Police Edward Gardella;
Kathleen Bisson [Burncoat Middle School teacher]; Baltimore Police Officer
and Police Corps graduate Michael Jones.

It is an honor to be here today in the city of Worcester [wooster], the
heartbeat of America... an honor to speak in this great hall where so
many great Americans have spoken, from Frederick Douglas, to Susan B.
Anthony, to Henry David Thoreau ... and an honor to be the first President
to visit Worcester [wooster] for more than 30 years. I am also honored to
share this stage with Kathleen Bisson and Officer Michael Jones, and to
hear about what they are doing to make their communities stronger and
safer.

Before I begin my remarks, I would like to say a few words about
the massive hurricane that is battering the mid-Atlantic coast, especially
in North Carolina, even as we speak. Since Hurricane Bonnie first made
landfall yesterday afternoon, it has torn houses and lives apart, with

devastating wind, rain, and tidal surges of up to 11 feet. Many of the communities affected by this storm had only just rebuilt homes and businesses destroyed by Hurricane Fran last year. Worst of all, we know that another powerful storm -- Hurricane Danielle -- is moving quickly in the wake of Hurricane Bonnie, threatening to strike.

Hillary and I join with all Americans in sending our thoughts and prayers to the families and communities struggling to survive this terrible storm. I spoke yesterday afternoon to FEMA Director James Lee Witt, and asked him to travel to North Carolina and report back to me. FEMA is already working alongside state and local emergency agencies to assess the damage, and to bring aid and comfort where it is needed. Hundreds of people and reserves of equipment and resources have already been deployed, and stand at the ready to bring relief as soon as the hurricane is over. I promise you, we will be there every step of the way, for as long as it takes, to help communities and families overcome this ordeal.

Now, I'd like to talk to you about what has brought all of us here today -- and what Vice President and Mrs. Gore, and Secretary Riley, are in California to talk about: our common commitment to make our streets and our schools safe for our families and our children, and two important steps we are taking to meet that challenge.

When I was running for President in 1992, I was at a rally in a hotel in New York City. As I was walking through the kitchen, a hotel employee came up to me. He told me that he was an immigrant, working hard here to make a better life for his family. He said, "In the country I come from, we were poor, but we were free. Here, I have more money, but we're not free." He told me that because of violent crime, his young son couldn't play in the park right across the street from their home; he couldn't walk two blocks to school without fear of being attacked or shot by a stray bullet. So, his father said to me, "If I vote for you, I want you to make my boy free."

I have never forgotten his words. And since I first took office, I have tried to live up to them -- to make his boy, and all children, free. Free from the fear of violence, free to play in parks and go to school in safety, free to live up to their God-given potential, every one of them.

For five years now, I have been committed to working together with far-sighted leaders at the state and local level to protect our children and make our communities safe. Together, we have put in place a bold new strategy, grounded in the principles and practices law enforcement officers and communities told us were working: community policing; anti-gang initiatives; targeted deterrence; tougher penalties; smarter, more comprehensive prevention.

I am proud to say that this comprehensive strategy has begun to show remarkable results. Crime rates are at 25-year low, juvenile crime has begun to decrease, and all across America, families are beginning to feel safe again -- free again -- in their homes and on their streets.

But you and I know that when it comes to keeping our communities and families safe, we cannot afford to rest -- and each of us must do our part. This morning, we have heard some remarkable stories from people who are rising to that responsibility. I want to talk to you now about two steps we are taking to build on their efforts and to continue our progress: first, making our schools safer by releasing an early warning

guide for school violence prevention, and second, improving the quality of policing by expanding the remarkable Police Corps program we heard about a few moments ago from Senator Kennedy and Officer Jones.

Early Warning Guide

For more than five years, I have been committed to making our schools places of learning, not places of fear. School security is tighter; anti-gang prevention is better; penalties are stronger. We have worked to strengthen and expand the Safe and Drug-Free Schools Program ... to enforce zero tolerance for guns in schools ... to encourage communities to crack down on truancy ... to support those who wish to adopt school uniform policies ... to insist on discipline and respect for authority in our schools ... and to expand afterschool programs that keep our children in the classroom, not on the streets.

This year, a new report showed that the overwhelming majority of America's schools are safe. Later this year, we will hold the first-ever White House Conference on School Safety to continue our progress. But when children in inner city schools must walk through metal detectors to protect them from the threat of violence, when students worry more about guns and gangs than math and science, when high schools in small towns like Springfield, Oregon and Jonesboro, Arkansas are torn apart by disturbed teenagers armed with deadly weapons, we know we must do more.

Earlier this year, in the aftermath of the tragedy in Springfield, I directed Secretary Riley and Attorney General Reno to develop a safe schools guide to help educators and parents recognize and respond to the early warning signs of violence. Today, I am pleased to announce that the guide is ready -- and over the next few weeks, every school in America will receive a copy, just in time for the start of the new school year.

This guide lists early warning signs to look for in troubled young people, and instructs schools on how to develop violence prevention and response plans. It will give us an important tool to stop violence before it starts -- but it also requires something of us: it requires attention, it requires involvement, and it requires commitment. Most of all, it requires a community-wide effort.

Because we know that we will only meet the challenge of making our schools and our communities safe when we come together -- sharing resources, listening to one another, and learning from one another.

Police Corps:

The Police Corps program we heard about earlier embodies these same principles. I first heard about the Police Corps nearly ten years ago, when I was Governor of Arkansas. I was so impressed by this program -- and by the force of Adam Walinsky's commitment to it -- that I became a charter member of the National Committee for the Police Corps on the spot. And I was proud to sign into law state legislation to create a Police Corps scholarship program in Arkansas.

What impressed me about the Police Corps was the way it embodies the vision of President Kennedy and Robert Kennedy, who understood that citizenship meant giving something back to the community, and that law enforcement meant more than policing a community, it meant being part of it.

When I became President, I was determined to help carry this

vision forward. Thanks to the efforts of Adam Walinsky, of Senator Ted Kennedy, and of Lieutenant Governor Kathleen Kennedy Townsend, we are doing exactly that. As we have already heard, much in the way of the ROTC, the Police Corps program gives talented young people substantial college scholarships in return for their service as police officers in our communities.

In 17 states around the country, this remarkable program is already helping to create a new generation of police officers -- young men and women, trained to stand on the front lines and to listen on front porches ... to work with young people in need and in distressed communities ... and to take their place alongside our nation's dedicated police officers.

As you know, we are joined here today by several young members of the Police Corps. These young people embody everything we hope for in our law enforcement officers: honor, courage, commitment to community and country.

We need more police officers like these fine young men and women. That is why today, I am pleased to announce \$30 million in funding to help more states award college scholarships in return for a commitment of law enforcement service.

Bobby Kennedy once said, "the fight against crime is, in the last analysis ... a fight to preserve that quality of community which is at the root of our greatness; a fight to preserve confidence in ourselves and our fellow citizens; a battle for the quality of our lives."

With these actions, we are moving one step closer to winning that battle for all Americans, and to building a stronger America for the 21st Century.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-AUG-1998 13:25:34.00

SUBJECT: daily report--education

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Single Sex Schools. Sen. Kay Bailey Hutchinson has asked for the Education Department's views on an amendment she will try to attach to the Labor-HHS-Education Appropriations bill regarding single sex education. The amendment would permit school districts to use ESEA Title VI (an education block grant) funds for the purpose of establishing single sex schools, by "clarifying" that title IX does not prohibit the use of these funds for single sex schools or classes, as long as comparable opportunities are provided to students of both genders. Our position is that while we support the goal of permitting single sex schools and classrooms, this amendment is both unnecessary and unwise. It is unnecessary because Title IX currently allows for comparable single-sex schools, and the Education Department is preparing modifications to its Title IX regulations that will also permit comparable single-sex classrooms. Further, the amendment would do nothing to address the most contentious issue in this area, which is whether comparable opportunities must always include single sex schools for each gender, or could instead include comparable educational opportunities offered in coed settings. While this issue could be resolved legislatively, by amending Title IX, we believe it is best handled through revised ED regulations. In addition, we believe the amendment is unwise because as drafted would create an anomaly in which local schools could use Title VI funds when establishing single sex programs--but would suggest that other federal, state or local funds could not be used for these purposes. This would create significant new administrative burdens on local school systems, ED's OCR, and courts, to trace Title VI funds in order to determine whether schools are in compliance with the law.

Quite apart from the merits of this bill, Sen. Specter intends to oppose any riders to the appropriations bill, as part of his strategy to produce a final appropriations bill that you can sign.

Education Event. We are working with NEC to plan a back-to-school event for Monday August 31, prior to your departure for Russia, in which you can highlight your education agenda and challenge the returning Congress to enact it before it adjourns. You will call on Congress to enact legislation to modernize schools, reduce class size, expand charter schools, and promote early literacy, as well as to reauthorize the Higher Education Act which includes your teacher preparation and recruitment initiative and your High Hopes mentoring initiative. You will also use this as an occasion to reiterate your education and training priorities for the Labor-HHS-Education appropriations bill. The event will most likely take place at a suburban Maryland elementary school.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-AUG-1998 11:24:17.00

SUBJECT: Re[2]: Thank you

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

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

TEXT:

fyi.

----- Forwarded by Thomas L. Freedman/OPD/EOP on 08/26/98
11:23 AM -----

cdewaal @ cspinet.org
08/26/98 12:09:44 PM

Record Type: Record

To: Thomas L. Freedman/OPD/EOP

cc:

Subject: Re[2]: Thank you

Hi again. Thanks for your call. I talked to the Reuters reporter and will be talking to an editor shortly. She admitted that I did say positive things in the first part of my remarks to her and that she saw my statement later in the day. I will be writing a letter to the editor of the Washington Times to correct our position and will see if Reuters can do something to help me get it corrected in other papers that ran the story. I hope this helps to clarify the inconsistency.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-AUG-1998 11:39:11.00

SUBJECT: Battered immigrants and public charge

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Elena,

INS agrees that VAWA self-petitioners are exempt from the public charge analysis. According to AYUDA there is misunderstanding within the community about this, though they could not say whether it was misrepresentations by district directors or just generalized confusion. I have asked AYUDA to determine which it is. If district offices are giving out wrong information, INS will issue guidance to clarify. If it is more a case of general confusion within the battered immigrant community, INS will send a letter (in response to an inquiry by AYUDA) clarifying the correct interpretation of the statute.

julie

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cecilia E. Rouse (CN=Cecilia E. Rouse/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:26-AUG-1998 17:58:04.00

SUBJECT: H-1B memo for VP

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

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

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

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

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

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

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

TEXT:

Here's a copy of the version of the memo that I sent to the VP's office.

-- Ceci

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D62]MAIL45016873W.226 to ASCII,
The following is a HEX DUMP:

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597F775954497D26E2F6651A925A75449DB7E0F6295CAE544C92741F6C1DB2C1505E0D03CCD376
632BFD67F1B02D21BF4ACAF44777E19C5B09118156E5A846A6ED0DC872773895FF3FE6BE1BC197

August 26, 1998

DRAFT MEMORANDUM FOR THE VICE-PRESIDENT

FROM: GENE SPERLING
BRUCE REED
CECILIA ROUSE

Automated Records Management System
Hex-Dump Conversion

SUBJECT: STATUS OF H-1B LEGISLATION

Background

H-1B visas are temporary work visas that allow "highly skilled" immigrants (with a BA or equivalent) to work in this country for up to six years. Under current law, the number of H-1B visas is capped at 65,000 per year. During the last fiscal year, this cap was reached for the first time. This fiscal year the cap was reached in early May; as a result, no more visas can be issued until October 1. The information technology (IT) industry strongly supports raising the annual cap to address what it maintains is a shortage of U.S. workers with IT skills. Others, including the Department of Labor and organized labor, challenge the industry's conclusions about a shortage and are concerned that the current H-1B program does not target its use to employers who are experiencing skills shortages.

Until last month there were two legislative vehicles for increasing the cap on the number of H-1B visas. On May 18, the Senate passed (78-20) an industry-backed bill sponsored by Senator Abraham (R-MI) that increases the cap on H-1B visas for three years and includes an authorization for additional scholarships. This bill does not, however, require companies to recruit or retain U.S. workers prior to hiring H-1B visa holders. In the House, late last spring, the Judiciary Committee approved (23-7) a bill sponsored by Representative Lamar Smith (R-TX). The Smith bill also increases the cap for three years but differs sharply from the Abraham bill by including meaningful protections for U.S. workers. The Smith bill, however, failed to include any training component for U.S. workers.

Soon after the House committee vote, House Majority Leader Arney told Rep. Smith that he would not bring Smith's bill to the House floor unless Rep. Smith worked out a compromise with Sen. Abraham that pleased the high tech business community. Consequently, in mid-July Rep. Smith and Sen. Abraham produced a compromise bill (the Abraham/Smith proposal) which includes weak and limited protections for U.S. workers and a small training provision. In part due to a senior advisors veto threat, the compromise measure failed to gain sufficient support in the House prior to the August recess and Republican leaders decided to postpone House floor consideration until September.

Administration Position

We agree that it may be necessary in the short-term to increase the number of visas for temporary foreign workers, but this must only be done in conjunction with additional efforts to

increase the skill level of U.S. workers (funded through a modest H-1B application fee paid by employers) and meaningful reforms to the H-1B program to protect U.S. workers. This is because it has been a core Clinton/Gore priority that the most important way to widen the availability of skilled workers must be to improve the skills of U.S. workers. We are also committed to ensuring that employers seek U.S. workers first. The reforms to the H-1B program that we have advocated would help target usage of the H-1B program to employers facing genuine skills shortages by requiring employers to attest to having attempted to recruit U.S. workers before applying for an H-1B worker and to having not laid off a U.S. worker in order to hire an H-1B worker.

Despite our efforts to work with members of the business community and Congress to craft a bill consistent with our principles, and in the face of our strong opposition, the Senate passed the bill sponsored by Senator Abraham that did not include either a recruitment or a no lay-off attestation and that weakened existing enforcement authority of the Department of Labor. In contrast, the Administration stated in a letter to Rep. Hyde that it would support Rep. Lamar Smith's bill, because it included meaningful reforms to the H-1B program, if it were modified to include a significant training provision.

While we met with both Sen. Abraham and Rep. Smith independently on several occasions early this summer, they finalized their compromise proposal without incorporating most of our suggestions. The Abraham/Smith proposal is better than the Abraham bill because it includes a small application fee to fund training and requires firms that have a high percentage of H-1B workers (typically "job shops" that contract workers to other firms) to attest to having attempted to recruit U.S. workers before hiring an H-1B worker and to having not laid off a U.S. worker in order to hire an H-1B worker. Unfortunately, the reforms are too weak to adequately protect U.S. workers (largely because far too many employers would be exempt from both attestations) and the bill, as structured, would not generate sufficient funds for increased training opportunities for U.S. workers.

We received a copy of the final Abraham/Smith proposal less than 24 hours prior to when we were told it was to be introduced on the House floor. Given the problems with the proposal and the lack of opportunity to negotiate further, we made a statement to the press that if the proposal were presented to the President his senior advisors would recommend that he veto it. In an effort to show our willingness to continue to work to improve the bill, that same day we put forth a list of proposed changes (see attached) and made clear that if the proposal were modified consistent with these changes, we would support it. This list included significant compromises on our part: e.g., (1) we would agree to apply the recruitment attestation only to firms that have a high percentage of H-1B workers (this would exempt companies such as Microsoft, Intel, and HP from this attestation); and (2) we would agree that the H-1B reforms sunset with the increase in the cap. These compromises have generated some opposition from organized labor and their Congressional supporters.

Since releasing our list of proposed changes, we have been engaged in serious discussions with members of Congress (including Sen. Abraham and Rep. Lofgren), and representatives from the business community (such as Jerry Jasinowski of NAM and Wade Randlett of Technet) and

organized labor (such as the AFL-CIO) in an attempt to reach a compromise that would include a more substantial training provision and stronger protections for U.S. workers. In these discussions, we have shown flexibility on the exact structure of a provision to protect U.S. workers from being laid-off and replaced with H-1B workers, but we continue to push for a meaningful provision that would protect all U.S. workers. We are hopeful that a compromise can be reached before the end of the Congressional session.

Industry's Position

The business community has generally not opposed the Administration's requirement that any H-1B legislation must include a significant training provision. It has, however, argued that the reforms would generate unnecessary and intrusive federal regulations. As a result, the community supports the Abraham/Smith proposal because it increases the cap on the number of visas for five years and would exempt a large percentage of companies from the worker protections.

In addition, while some within the business community described our list of changes to the Abraham/Smith proposal as "good faith and reasonable," others accused us of "raising the bar" on what needs to be included in an acceptable bill and of attempting to block efforts to increase the cap. In fact, our position has not changed: in order for the President to sign a bill that increases the cap, it must also contain both a significant training provision and meaningful reform to the H-1B program. The Abraham/Smith proposal does not meet that standard.

Organized Labor's Position

Organized labor does not oppose an increase in the cap, as long as this increase is accompanied by strong worker protections and a meaningful training provision. Thus, it opposes the Abraham bill in the Senate and generally supports the Smith bill in the House (if it were modified to include a training provision). Organized labor opposes the Abraham/Smith proposal because the worker protections would only apply to a small number of companies, the training component is relatively small, and the H-1B reforms would sunset with the increase in the cap. Not surprisingly, its main concerns with our list of changes to the Abraham/Smith proposal are that (1) we would agree to apply the recruitment attestation only to firms that have a high percentage of H-1B workers (the concern is that this would exempt an unknown, and potentially large, number of firms from this worker protection); and (2) we would agree that the H-1B reforms sunset with the increase in the cap.

Talking Points -- H-1B Legislation
August 26, 1998

- We support attempts to increase the number of H-1B visas as part of a larger package that includes both additional training for U.S. workers and meaningful reform of the H-1B program that both protects U.S. workers and respects the good faith business judgments of employers.
- We want to pass a bill to increase the cap. At the same time, our goal is to help ensure that qualified U.S. workers have the opportunity to fill a job before a temporary foreign worker is hired and that U.S. workers not lose their jobs to temporary foreign workers. A substantial training component would help U.S. workers obtain the skills needed to fill these jobs and the kinds of reforms that we have advocated (like those included in the Smith bill) would effectively target H-1B visas to industries experiencing skill shortages.
- We agree that the reforms should be targeted at companies that are dependent on H-1B workers (primarily the “job shops”), but we also believe that all U.S. workers should have some additional level of protection against being laid-off so that the employer can hire an H-1B worker. We believe that these reforms should not be overly intrusive for employers.
- Although the agreement reached by the Republicans last month includes a training provision and limited protections for U.S. workers, it falls short in several respects. The training provision would not generate sufficient funds and the protections included some big loopholes that would make it difficult to tackle abuses in the program.
- We have laid out specific suggestions for ways to improve the Abraham/Smith proposal that, if made, would cause us to give this proposal our full support. We have had a series of discussions with the bill’s sponsors in an attempt to reach an agreement. Our suggested changes generally increase the funding for training and strengthen the protections for U.S. workers in an attempt to achieve a reasonable, balanced bill that both protects U.S. workers and respects the good faith business judgments of employers.

Q&A -- H-1B Legislation
August 26, 1998

Q: Why has the Administration not embraced the Republican compromise on H-1B legislation?

A: Although the Republican agreement includes a training provision and limited protections for U.S. workers, it fell short in several respects. The training provision would not generate sufficient funds and the protections included some big loopholes that would have made it difficult to tackle abuses in the program.

Q: Some Republicans and hi-tech executives claim that the Administration keeps moving the bar on what it would consider an acceptable bill. What has been going on?

A: Our position on this issue is unchanged: For the President to sign a bill that increases the cap on H-1B visas, it must contain both a significant training component and meaningful reform to the H-1B program to ensure that American companies do not lay-off U.S. workers and replace them with foreign workers.

The Republican agreement that was unveiled last month fell short in several respects. It watered down the training provisions and created some big loopholes that would have made it difficult to tackle abuses in the program.

We have laid out a very specific path to how to get our support on the legislation and have had a series of discussions with the bill's sponsors in an attempt to reach an agreement. Our suggested changes generally increase the funding for training and strengthen the protections for U.S. workers in an attempt to achieve a reasonable, balanced bill that both protects U.S. workers and respects the good faith business judgments of employers.

Q: Would the President veto the Abraham/Smith compromise?

A: If the Congress passes the Abraham/Smith proposal in its current form, the President's senior advisors will recommend that he veto it. While the President is willing to sign a bill that raises the cap on H-1B visas, he also wants to make sure that we protect and provide training for U.S. workers. We want to work with the Congress to develop a balanced bill that addresses the growing demand for highly skilled workers.

July 30, 1998

Proposed Administration Revisions to H.R. 3736 (the July 29, 1998 version):

1. Require either a \$500 fee for each position for which an application is filed or a \$1,000 fee for each nonimmigrant. Fee to fund training provided under JTPA Title IV. In addition, a small portion of these revenues should fund the administration of the H-1B visa program, including the cost of arbitration.
2. Define H-1B-dependent employers as:
 - a. For employers with fewer than 51 workers, that at least 20% of their workforce is H-1B; and
 - b. For employers with more than 50 workers, that at least 10% of their workforce is H-1B.
3. The recruitment and no lay-off attestations apply to: (1) H-1B dependent employers; and (2) any employer who, within the previous 5 years, has been found to have willfully violated its obligations under this law.
4. H-1B dependent employers attest they will not place an H-1B worker with another employer, under certain employment circumstances, where the other employer has displaced or intends to displace a U.S. worker (as defined in paragraph (4)) during the period beginning 90 days before and ending 90 days after the date the placement would begin.
5. DOL would have the authority to investigate compliance either: (1) pursuant to a complaint by an aggrieved party; or (2) based on other credible evidence indicating possible violations.
6. Establish an arbitration process for disputes involving the laying-off of any U.S. worker who was replaced by an H-1B worker, even of a non-H-1B dependent employer. This arbitration process would be largely similar to that laid out in H.R. 3736 except that it would be administered by the Secretary of Labor. The arbitrator must base his or her decision on a "preponderance of the evidence."
7. Reference in the bill to "administrative remedies" includes the authority to require back pay, the hiring of an individual, or reinstatement.
8. There must be appropriate sanctions for violations of "whistleblower" protections.
9. Close loopholes in the attestations:
 - a. Strike the provision that "[n]othing in the [recruitment attestation] shall be construed to prohibit an employer from using selection standards normal or

customary to the type of job involved.”

- b. Clarify that job contractors can be sanctioned for placing an H-1B worker with an employer who subsequently lays off a U.S. worker within the 90 days following placement.
 - c. Do not exempt H-1B workers with at least a master’s degree or the equivalent from calculations of the total number of H-1B employees.
 - d. Define lay-off based on termination for “cause or voluntary termination,” but exclude cases where there has been an offer of continuing employment.
- 10. Consolidate the LCA approval and petition processes within DOL, rather than within INS.
 - 11. Broaden the definition of U.S. workers to include aliens authorized to be employed by this act or by the Attorney General.
 - 12. Include a provision that prohibits unconscionable contracts.
 - 13. Include a “no benching” requirement that an H-1B nonimmigrant in “non-productive status” for reasons such as training, lack of license, lack of assigned work, or other such reason (not including when the employee is unavailable for work) be paid for a 40 hour week or a prorated portion of a 40 hour week during such time.
 - 14. Increase the annual cap on H-1B visas to 95,000 in FY 1998, 105,000 in FY 1999, and 115,000 in FY 2000. After FY 2000, the visa cap shall return to 65,000.
 - 15. Eliminate the 7500 cap on the number of non-physician health care workers admitted under the H-1B program to make the bill consistent with our obligations under the GATS agreement.

Withdrawal/Redaction Marker

Clinton Library

| DOCUMENT NO. AND TYPE | SUBJECT/TITLE | DATE | RESTRICTION |
|--------------------------|--|------------|-------------|
| 001. email | Leanne Shimabukuro to Laura Emmett and Elena Kagan. Subject: briefing [partial] (1 page) | 08/26/1998 | P6/b(6) |

COLLECTION:

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

FOLDER TITLE:

[08/26/1998]

2009-1006-F
ke755

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

CREATION DATE/TIME:26-AUG-1998 16:08:04.00

SUBJECT: briefing

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 haven't received Mike's comments yet -- he took the paper to a meeting.
I'm forwarding this to you now in the interest of time.

P6/(b)(6)

[001]

P6/(b)(6)

Thanks,
Leanne

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D69]MAIL44117773M.226 to ASCII,
The following is a HEX DUMP:

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August 26, 1998

SAFE SCHOOLS AND COMMUNITIES EVENT

DATE: August 27, 1998
LOCATION: Mechanics Hall
EVENT TIME: 10:45 am - 12:00pm
FROM: Bruce Reed/Elena Kagan

I. PURPOSE

To highlight the importance of safe schools and partnerships with law enforcement by announcing: (1) the release of the Early Warning Guide for teachers and principals to help identify and respond to violence in schools; and (2) the availability of \$30 million in Police Corps funds for states to provide college scholarships to aspiring law enforcement officers in return for a commitment of service.

II. BACKGROUND

Early Warning Guide

In response to the tragic school shooting at Thurston High School in Springfield, Oregon, in your June 13 radio address, you directed Secretary Riley and the Attorney General to develop a guide to help teachers, principals, and parents respond to the early warning signs of troubled youth that can lead to school violence. You will announce the release of the Early Warning Guide by the Departments of Education and Justice at the event. The guide will be posted on the Education Department Website tomorrow, and on September 1, a copy will be sent to every school in the country.

The Departments worked extensively with school psychologists, teachers, principals, parents, law enforcement, and youth in developing and reviewing the guide. They also consulted with school districts such as Jonesboro that have recently been confronted with school violence. The guide, based on research and experience in schools around the country, gives school communities information on how to:

(1) Identify the early warning signs that relate to violence and other behaviors, including a list of specific signs to look for in troubled youth, such as: uncontrolled anger; patterns of impulsive and chronic hitting, intimidating, and bullying; detailed and specific threats to use violence; gang affiliations; feelings of persecution; and past history of violent and aggressive behaviors such as cruelty to animals or fire setting. Trained staff can use these early warning signs, together

with knowledge about students and their circumstances, to determine when to seek help for individual students and to prevent violence.

(2) Take action steps to prevent violence, intervene and get help for troubled children, and respond to school violence when it is imminent or has occurred. The guide instructs schools how to develop a violence prevention and response plan and form a school-based team to oversee the plan's implementation. It provides a crisis procedure checklist, a step-by-step plan to follow once sudden violence occurs. The guide also lists actions students can take -- such as listening to troubled friends, involving trusted adults, and asking law enforcement to conduct school safety audits -- to help create safer schools.

Also on Thursday, the Vice President and Mrs. Gore will also hold a listening session on school safety in San Francisco. Their session at Lincoln High School will include parents, local law enforcement, and community leaders and will help to prepare for the upcoming White House Conference on School Safety this October 15th.

Police Corps

You will announce the availability of a total of \$30 million for 23 states to participate in the Police Corps program created in the 1994 Crime Act. As you know, the Police Corps program encourages young people to become law enforcement officers by providing college scholarships of up to \$7,500 per year for four years for students who agree to serve on a state or local police force for an equal length of time. Police Corps also provides policing agencies \$10,000 per participant for each year of required service.

Tomorrow's announcement marks a six state expansion of the Police Corps program. Massachusetts is one of the new states. The six new states will receive \$14.3 million to award scholarships for 330 students -- which will bring the total number of students funded by Police Corps to over 1,000. The remaining funds will support the ongoing expenses of Police Corps participants already approved to date.

The 23 participating Police Corps states are: AR, CO, CN, FL, GA, IN, IL, KY, MA, MD, MI, MS, MO, NV, NM, NC, OH, OR, OK, SC, TX, UT, WA and the Virgin Islands.

III. PARTICIPANTS

Mayor Raymond Moriano
Senator Edward Kennedy
Representative James McGovern
Massachusetts Attorney General Scott Harshbarger
Police Chief Edward Gardella
Officer Michael Jones, Baltimore Police Department, Police Corps graduate
Kathleen Bisson, teacher, Burncoat Middle School

Automated Records Management System
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IV. PRESS PLAN

Open Press.

V. SEQUENCE OF EVENTS

- **YOU** will be announced onto the stage accompanied by Mayor Moriano, Representative James McGovern, Police Chief Edward Gardella, Attorney General Scott Harshbarger, Officer Michael Jones, Senator Edward Kennedy, and Kathleen Bisson.
- Mayor Raymond Moriano will make opening remarks and introduce Representative James McGovern.
- Representative James McGovern will make remarks and introduce Police Chief Edward Gardella.
- Police Chief Edward Gardella will make remarks and introduce Attorney General Scott Harshbarger.
- Attorney General Scott Harshbarger will make remarks and introduce Officer Michael Jones.
- Officer Michael Jones will make remarks and introduce Senator Kennedy
- Senator Kennedy will make remarks and introduce Kathleen Bisson.
- Kathleen Bisson will make remarks and introduce **YOU**.
- **YOU** will make remarks.
- **YOU** will complete your remarks at the podium, work a ropeline, and then depart.

VI. REMARKS

Provided by Speechwriting.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Eli G. Attie (CN=Eli G. Attie/O=OVP [UNKNOWN])

CREATION DATE/TIME:26-AUG-1998 14:24:14.00

SUBJECT: VP message events for next week...

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

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

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

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

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

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

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

TEXT:

A quick query -- one of our message events for next week (the week POTUS is in Russia) is on the verge of falling through, and we're looking for any strong announcements -- perhaps something POTUS has to pass on because of his trip -- for either the 3rd, the 4th, or both.

Any ideas?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Michael L. Goad (CN=Michael L. Goad/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:26-AUG-1998 12:06:12.00

SUBJECT: LRM MLG194: USDA Report on HR3437, the Tobacco Market Transition Act

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TO: Gene B. Sperling (CN=Gene B. Sperling/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: Mark E. Miller (CN=Mark E. Miller/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

CC: E. Holly Fitter (CN=E. Holly Fitter/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

CC: Annette E. Rooney (CN=Annette E. Rooney/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

TEXT:

Later today, you will receive a copy of the Department of Agriculture's proposed report opposing HR3437, the "Tobacco Market Transition Act." See LRM MLG194.

A copy of the 43-page HR3437 not be attached to the referral. A copy of the bill is available to you by launching the icon below.

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D35]MAIL45115573Y.226 to ASCII,
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105TH CONGRESS
2D SESSION

H. R. 3437

To provide market transition assistance for quota holders, active tobacco producers, and tobacco-growing counties, to authorize a private Tobacco Production Control Corporation and tobacco loan associations to control the production and marketing and ensure the quality of tobacco in the United States, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 11, 1998

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

A BILL

To provide market transition assistance for quota holders, active tobacco producers, and tobacco-growing counties, to authorize a private Tobacco Production Control Corporation and tobacco loan associations to control the production and marketing and ensure the quality of tobacco in the United States, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

1 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

2 (a) **SHORT TITLE.**—This Act may be cited as the
3 “Tobacco Market Transition Act”.

4 (b) **TABLE OF CONTENTS.**—The table of contents of
5 this Act is as follows:

Sec. 1. Short title; table of contents.

Sec. 2. Definitions.

Sec. 3. Purposes.

TITLE I—TOBACCO COMMUNITY REVITALIZATION TRUST FUND

Sec. 101. Tobacco Community Revitalization Trust Fund.

TITLE II—TOBACCO MARKET TRANSITION ASSISTANCE

Sec. 201. Compensation to quota holders for loss of tobacco quota asset value.

Sec. 202. Transition payments for active tobacco producers.

Sec. 203. Tobacco Loan associations.

Sec. 204. Tobacco community economic development grants.

Sec. 205. Transition payments for other persons involved in tobacco production
and marketing and cigarette manufacture and distribution.

Sec. 206. Tax treatment of compensation and transition payments.

**TITLE III—ESTABLISHMENT OF PRIVATE TOBACCO PRODUCTION
ADJUSTMENT AND QUALITY ASSURANCE PROGRAMS**

Sec. 301. Tobacco Production Control Corporation.

Sec. 302. Tobacco loan associations.

Sec. 303. Tobacco price support levels.

Sec. 304. Penalties.

Sec. 305. Referenda.

6 **SEC. 2. DEFINITIONS.**

7 In this Act:

8 (1) **ACTIVE TOBACCO PRODUCER.**—The term
9 “active tobacco producer” means a person that—

10 (A) is the actual producer, as determined
11 by the Secretary, of tobacco on a farm where
12 tobacco is produced pursuant to a tobacco from
13 marketing quota or farm acreage allotment es-
14 tablished under the Agricultural Adjustment

1 Act of 1938 (7 U.S.C. 1281 et seq.) for the
2 1997 crop year; and

3 (B) planted the crop, or is considered to
4 have planted the crop under that Act, in 1997.

5 (2) QUOTA HOLDER.—The term “quota holder”
6 means an owner of a farm on January 1, 1998 for
7 which a tobacco farm marketing quota or farm acre-
8 age allotment was established under the Agricultural
9 Adjustment Act of 1938 (7 U.S.C. 1281 et seq.)

10 (3) SECRETARY.—The term “Secretary” means
11 the Secretary of Agriculture.

12 (4) TOBACCO LOAN ASSOCIATION.—The term
13 “Association” means a producer-owned cooperative
14 marketing association.

15 (5) TOBACCO PRODUCTION CONTROL CORPORA-
16 TION.—The term “Corporation” means the Tobacco
17 Production Control Corporation established by sec-
18 tion 301.

19 (6) TRUST FUND.—The term “Trust Fund”
20 means the Tobacco Community Revitalization Trust
21 Fund established by section 101.

22 **SEC. 3. PURPOSES.**

23 It is the purpose of this Act to—

24 (1) dismantle the existing Federal tobacco pro-
25 gram and establish a private program to ensure the

1 stability of the price and supply of domestically pro-
2 duced tobacco;

3 (2) compensate quota holders for the value of
4 assets that may be diminished as a result of this leg-
5 islation;

6 (3) provide targeted economic development
7 funds to tobacco dependent communities for the cre-
8 ation of jobs, training of individuals, and long-term
9 economic development of the communities;

10 (4) reduce the operating costs of tobacco pro-
11 ducers by eliminating expenses associated with buy-
12 ing or leasing tobacco quota;

13 (5) make domestically produced tobacco more
14 competitive with tobacco produced in other coun-
15 tries; and

16 (6) provide funds for those persons who are ad-
17 versely and directly affected by the dismantling of
18 the Federal tobacco program and the implementa-
19 tion of national tobacco settlement legislation.

20 **TITLE I—TOBACCO COMMUNITY**
21 **REVITALIZATION TRUST FUND**

22 **SEC. 101. TOBACCO COMMUNITY REVITALIZATION TRUST**
23 **FUND.**

24 (a) IN GENERAL.—There is established in the Treas-
25 ury of the United States a trust fund to be known as the

1 “Tobacco Community Revitalization Trust Fund”, con-
2 sisting of such amounts as may be appropriated or cred-
3 ited to the Trust Fund. The Trust Fund shall be adminis-
4 tered by the Corporation.

5 (b) TRANSFERS TO TRUST FUND.—There are appro-
6 priated and transferred to the Trust Fund, from amounts
7 made available to the Trust Fund out of funds allocated
8 through national tobacco settlement legislation,
9 \$3,500,000,000 for each of fiscal years 1999 through
10 2003 and \$265,000,000 for each of fiscal years 2004
11 through 2023.

12 (c) REPAYABLE ADVANCES.—

13 (1) AUTHORIZATION.—There are authorized to
14 be appropriated to the Trust Fund, as repayable ad-
15 vances, such sums as may from time to time be nec-
16 essary to make expenditures under subsection (d).

17 (2) REPAYMENT WITH INTEREST.—Repayable
18 advances made to the Trust Fund shall be repaid,
19 and interest on the advances shall be paid, to the
20 general fund of the Treasury when the Secretary of
21 the Treasury determines that moneys are available
22 in the Trust Fund to make the payments.

23 (3) RATE OF INTEREST.—Interest on an ad-
24 vance made under this subsection shall be at a rate
25 determined by the Secretary of the Treasury (as of

1 the close of the calendar month preceding the month
2 in which the advance is made) that is equal to the
3 current average market yield on outstanding market-
4 able obligations of the United States with remaining
5 period to maturity comparable to the anticipated pe-
6 riod during which the advance will be outstanding.

7 (d) EXPENDITURES FROM TRUST FUND.—Amounts
8 in the Trust Fund shall be available for making expendi-
9 tures to defray—

10 (1) the costs of providing compensation to
11 quota holders for the loss of tobacco quota asset
12 value under section 201;

13 (2) the costs of making transition payments to
14 active tobacco producers under section 202;

15 (3) the costs of forgiving loans and transferring
16 title to inventories of tobacco and funds to Associa-
17 tions under section 203;

18 (4) the costs of making tobacco community eco-
19 nomic development grants under section 204, but
20 not to exceed \$250,000,000 for each of fiscal years
21 1999 through 2003 and an amount determined by
22 the Corporation to be appropriate for each of fiscal
23 years 2004 through 2023;

24 (5) the costs of making transition payments to
25 tobacco warehousemen and other persons directly in-

1 involved in tobacco production and marketing and cig-
2 arette manufacture and distribution under section
3 205.

4 (6) the costs of carrying out the duties of the
5 Corporation and the Associations, including assuring
6 the quality and controlling the production and mar-
7 keting of domestic tobacco and otherwise carrying
8 out title III;

9 (7) the costs to the Secretary of enforcing title
10 III;

11 (8) the costs of providing crop insurance to to-
12 bacco producers; and

13 (9) any other costs incurred by the Department
14 of Agriculture associated with tobacco.

15 **TITLE II—TOBACCO MARKET**
16 **TRANSITION ASSISTANCE**

17 **SEC. 201. COMPENSATION TO QUOTA HOLDERS FOR LOSS**
18 **OF TOBACCO QUOTA ASSET VALUE.**

19 (a) **IN GENERAL.**—The Corporation shall make pay-
20 ments for tobacco quota to eligible quota holders.

21 (b) **ELIGIBILITY.**—To be eligible to receive payments
22 under this section, a quota holder shall prepare and sub-
23 mit to the Corporation an application at such time, in such
24 manner, and containing such information as the Corpora-
25 tion may require, including information sufficient to dem-

1 onstrate to the satisfaction of the Corporation that the
2 person was a quota holder on January 1, 1998.

3 (c) BASE QUOTA LEVEL.—

4 (1) IN GENERAL.—The Secretary shall deter-
5 mine, for each quota holder, the base quota level for
6 the 1995 through 1997 marketing years.

7 (2) LEVEL.—The base quota level for a quota
8 holder shall be equal to the average tobacco farm
9 marketing quota established for the 1995 through
10 1997 marketing years for the farm owned by the
11 quota holder on January 1, 1998.

12 (3) MARKETING QUOTAS OTHER THAN POUND-
13 AGE QUOTAS.—For each kind of tobacco for which
14 there is a marketing quota or allotment (on an acre-
15 age basis), the base quota level for each quota holder
16 shall be determined in accordance with this sub-
17 section (based on a poundage conversion) in an
18 amount equal to the product obtained by multiply-
19 ing—

20 (A) the average tobacco farm marketing
21 quota or allotment for the 1995 through 1997
22 marketing years; by

23 (B) the average yield per acre for the
24 quota holder's farm for the kind of tobacco for
25 the marketing years.

1 (d) PAYMENTS.—The Corporation shall make pay-
 2 ments to each quota holder that is eligible under sub-
 3 section (b) in 5 equal installments, 1 for each of the 1999
 4 through 2003 crops of tobacco, in an aggregate amount
 5 that is equal to the product obtained by multiplying—

6 (1) \$8 per pound; by

7 (2) the base quota level established for the
 8 quota holder under subsection (c).

9 **SEC. 202. TRANSITION PAYMENTS FOR ACTIVE TOBACCO**
 10 **PRODUCERS.**

11 (a) IN GENERAL.—The Corporation shall make tran-
 12 sition payments to eligible active tobacco producers.

13 (b) ELIGIBILITY.—To be eligible to receive payments
 14 under this section, an active tobacco producer shall—

15 (1) prepare and submit to the Corporation an
 16 application at such time, in such manner, and con-
 17 taining such information as the Corporation may re-
 18 quire, including information sufficient to make the
 19 demonstration required under paragraph (2); and

20 (2) demonstrate to the satisfaction of the Cor-
 21 poration that, the person planted, or is considered to
 22 have planted, a 1997 crop of tobacco.

23 (c) PAYMENT QUANTITY.—

24 (1) IN GENERAL.—The Secretary shall deter-
 25 mine and provide to the Corporation, for each active

1 tobacco producer, the production quantity eligible for
2 payment for the 1995 through 1997 marketing
3 years.

4 (2) ELIGIBLE PRODUCTION QUANTITY.—The
5 production quantity eligible for payment for an ac-
6 tive tobacco producer shall be equal to the average
7 number of pounds of tobacco quota established for
8 a farm for the 1995 through 1997 marketing years
9 for which the producer was the actual producer of
10 the tobacco on the farm.

11 (3) MARKETING QUOTAS OTHER THAN POUND-
12 AGE QUOTAS.—For each kind of tobacco for which
13 there is a marketing quota or allotment (on an acre-
14 age basis), the production quantity eligible for pay-
15 ment for each active tobacco producer shall be deter-
16 mined in accordance with this subsection (based on
17 a poundage conversion) in an amount equal to the
18 product obtained by multiplying—

19 (A) the average tobacco farm marketing
20 quota or allotment for the 1995 through 1997
21 marketing years; by

22 (B) the average yield per acre for the ac-
23 tive tobacco producer for the kind of tobacco for
24 the marketing years.

1 (d) PAYMENTS.—The Corporation shall make pay-
2 ments for each of the 1999 through 2003 crops of tobacco
3 to each active tobacco producer that is eligible under sub-
4 section (b) in an amount that is equal to the product ob-
5 tained by multiplying—

6 (1) \$0.80 per pound; by

7 (2) the payment quantity established for the
8 producer under subsection (c).

9 (e) DEATH OF ACTIVE TOBACCO PRODUCER.—If an
10 active tobacco producer who is entitled to payments under
11 this section dies and is survived by a spouse or 1 or more
12 dependents, the right to receive the payments shall trans-
13 fer to the surviving spouse or, if there is no surviving
14 spouse, to the estate of the producer.

15 **SEC. 203. TOBACCO LOAN ASSOCIATIONS.**

16 (a) PRIOR LOANS.—The Secretary shall forgive each
17 loan made to an Association under section 106A or 106B
18 of the Agricultural Act of 1949 (7 U.S.C. 1445 1, 1445
19 2) that is outstanding on the date of enactment of this
20 Act.

21 (b) TRANSFER OF TITLE FOR LOAN INVENTORIES.—
22 The Secretary shall transfer to each Association described
23 in subsection (a) the title to all inventories of tobacco held
24 by the Secretary to secure loans made to the Association

1 under section 106A or 106B of the Agricultural Act of
2 1949 (7 U.S.C. 1445 1, 1445 2).

3 (c) NO NET COST TOBACCO FUNDS.—Notwithstand-
4 ing sections 106A(f) and 106B(g) of the Agricultural Act
5 of 1949 (7 U.S.C. 1445–1(f) and 1445–2(g)), all funds
6 held in a No Net Cost Tobacco Fund or No Net Cost To-
7 bacco Account on behalf of an Association under section
8 106A or 106B of that Act (7 U.S.C. 1445–1, 1445–2)
9 on the date of enactment of this Act shall be the property
10 of the Association.

11 **SEC. 204. TOBACCO COMMUNITY ECONOMIC DEVELOP-**
12 **MENT GRANTS.**

13 (a) AUTHORITY.—The Corporation shall make grants
14 to eligible tobacco-growing political subdivisions in accord-
15 ance with this section to enable the political subdivisions
16 to carry out economic development activities.

17 (b) ELIGIBILITY.—To be eligible to receive payments
18 under this section, a political subdivisions in a State
19 shall—

20 (1) have in excess of \$100,000 in gross income
21 from sales of tobacco produced within the political
22 subdivision during 1 or more of the 1995 through
23 1997 marketing years, as determined by the Cor-
24 poration;

1 (2) prepare and submit to the Corporation an
2 application at such time, in such manner, and con-
3 taining such information as the Corporation may re-
4 quire, including—

5 (A) a description of the activities that the
6 political subdivision will carry out using
7 amounts received under the grant;

8 (B) a designation of an appropriate politi-
9 cal subdivision agency to administer amounts
10 received under the grant;

11 (C) a description of the steps to be taken
12 to ensure that the funds are distributed in ac-
13 cordance with subsection (e); and

14 (D) an economic development plan, ap-
15 proved by a regional authority authorized to co-
16 ordinate economic development efforts in the re-
17 gion where the political subdivision is located,
18 or approved by the State if no such regional au-
19 thority exists, that describes the activities that
20 the political subdivision will carry out using
21 amounts received under the grant. Where a po-
22 litical subdivision ineligible to receive payments
23 under subsection (b)(1) is surrounded within
24 the State by a political subdivision eligible to
25 receive payments under subsection (b)(1), an

1 economic development plan shall not be ap-
2 proved unless submitted jointly by both jurisdic-
3 tions.

4 (c) AMOUNT OF GRANT.—

5 (1) IN GENERAL.—From the amounts available
6 to carry out this section for a fiscal year, the Cor-
7 poration shall allot to each eligible tobacco-growing
8 political subdivision an amount that bears the same
9 ratio to the total funds available as the total income
10 of the tobacco-growing political subdivision derived
11 from the production of tobacco within the political
12 subdivision during the 1995 and through 1997 mar-
13 keting years (as determined under paragraph (2))
14 bears to the total income of all tobacco-growing po-
15 litical subdivisions derived from the production of to-
16 bacco during the 1995 through 1997 marketing
17 years.

18 (2) TOBACCO INCOME.—For the 1995 through
19 1997 marketing years, the Secretary shall determine
20 and provide to the Corporation the amount of in-
21 come derived from the production of tobacco in each
22 tobacco-growing political subdivision and in all to-
23 bacco-growing political subdivisions.

24 (d) PAYMENTS.—

1 (1) IN GENERAL.—A tobacco-growing political
2 subdivision that has an application approved by the
3 Corporation under subsection (b) shall be entitled to
4 a payment under this section in an amount that is
5 equal to its allotment under subsection (c).

6 (2) FORM OF PAYMENTS.—The Corporation
7 may make payments under this section to a tobacco-
8 growing political subdivision in installments, and in
9 advance or by way of reimbursement, with necessary
10 adjustments on account of overpayments or under-
11 payments, as the Corporation may determine.

12 (3) REALLOTMENTS.—Any portion of the allot-
13 ment of a political subdivision under subsection (c)
14 that the Corporation determines will not be used to
15 carry out this section in accordance with an ap-
16 proved political subdivision application required
17 under subsection (b), shall be reallocated by the Cor-
18 poration to other tobacco-growing political subdivi-
19 sions in proportion to the original allotments to the
20 other tobacco-growing political subdivisions.

21 (e) USE AND DISTRIBUTION OF FUNDS.—

22 (1) IN GENERAL.—Amounts received by a to-
23 bacco-growing political subdivision under this section
24 shall be used to carry out economic development ac-
25 tivities, including—

1 (A) activities designed to help create pro-
2 ductive farm or off-farm employment in rural
3 areas to provide a more viable economic base
4 and enhance opportunities for improved in-
5 comes, living standards, and contributions by
6 rural individuals to the economic and social de-
7 velopment of tobacco communities;

8 (B) activities designed to provide training
9 and transition assistance to quota holders and
10 active tobacco producers to enable the holders
11 and producers to produce alternative agricul-
12 tural commodities or obtain alternative employ-
13 ment;

14 (C) activities to improve the quality of edu-
15 cation in tobacco communities;

16 (D) activities to promote tourism in to-
17 bacco communities through natural resource
18 protection;

19 (E) activities to construct advanced manu-
20 facturing centers, industrial parks, water and
21 sewer facilities, and transportation improve-
22 ments in tobacco communities;

23 (F) activities to establish small business
24 incubators in tobacco communities;

1 (G) activities to install high technology in-
2 frastructure improvements in tobacco commu-
3 nities;

4 (H) rural business enterprise activities de-
5 scribed in subsections (c) and (e) of section
6 310B of the Consolidated Farm and Rural De-
7 velopment Act (7 U.S.C 1932);

8 (I) downpayment loan assistance programs
9 that are similar to the program described in
10 section 310E of the Consolidated Farm and
11 Rural Development Act (7 U.S.C 1935);

12 (J) activities that expand existing infra-
13 structure, facilities, and services to capitalize on
14 opportunities to diversify economies in tobacco
15 communities and that support the development
16 of new industries or commercial ventures;

17 (K) activities by agricultural organizations
18 that provide assistance directly to quota holders
19 and active tobacco producers to assist in devel-
20 oping other agricultural activities that supple-
21 ment tobacco-producing activities;

22 (L) initiatives designed to create or expand
23 locally owned value-added processing and mar-
24 keting operations in tobacco communities; and

1 (M) technical assistance activities by per-
2 sons to support farmer-owned enterprises, or
3 agriculture-based rural development enterprises,
4 of the type described in section 252 or 253 of
5 the Trade Act of 1974 (19 U.S.C 2342, 2343).

6 (2) MAINTENANCE OF EFFORT.—The political
7 subdivision and the State shall provide assurances to
8 the Corporation that funds provided to the political
9 subdivision under this section will be used only to
10 supplement, not to supplant, the amount of Federal,
11 State, and local funds otherwise expended for eco-
12 nomic development activities in the political subdivi-
13 sion.

14 **SEC. 205. TRANSITION PAYMENTS FOR OTHER PERSONS IN-**
15 **VOLVED IN TOBACCO PRODUCTION AND**
16 **MARKETING AND CIGARETTE MANUFACTURE**
17 **AND DISTRIBUTION.**

18 (a) PAYMENTS FOR WAREHOUSEMEN.—

19 (1) PAYMENTS REQUIRED.—The Corporation
20 shall make transition payments to tobacco ware-
21 housemen as reimbursement for the reduced quan-
22 tities of tobacco to be marketed by producers
23 through warehousemen as a result of the decrease in
24 demand for domestically produced tobacco.

1 (2) PAYMENT BASIS.—The Corporation shall
2 establish the amount of the payments to be made to
3 a tobacco warehouseman on the basis of the average
4 tobacco volume and commissions of the warehouse-
5 man for the 1995 through 1997 marketing years.
6 The average volume level for a tobacco warehouse-
7 man shall be equal to the average volume of sales of
8 a particular type of tobacco handled by the tobacco
9 warehouseman on behalf of active tobacco producers
10 for the 1995 through 1997 marketing years, as de-
11 termined using data collected by the Agricultural
12 Marketing Service of the Department of Agriculture.
13 The average commission level for a tobacco ware-
14 houseman shall be equal to the average amount of
15 commission and fees imposed by the tobacco ware-
16 houseman for marketing tobacco on behalf of active
17 tobacco producers for the 1995 through 1997 mar-
18 keting years, as determined using data collected by
19 the Agricultural Marketing Service.

20 (b) PAYMENTS FOR OTHER PERSONS.—The Cor-
21 poration shall consider the feasibility of making transition
22 payments to tobacco graders, inspectors, checkers, auc-
23 tioneers, equipment dealers, cigarette vending machine
24 owners or operators, employees of tobacco manufacturing
25 and leaf dealer firms, and other persons who are adversely

1 and directly affected by the dismantling of the Federal to-
 2 bacco program or any national tobacco settlement legisla-
 3 tion.

4 (c) RULES.—Payment amounts under this section
 5 shall be established by and made according to the rules
 6 issued by the Corporation.

7 (d) AVAILABLE FUNDS.—From amounts in the Trust
 8 Fund, the Corporation may expend \$300,000,000 per year
 9 for five years for payments under this section.

10 **SEC. 206. TAX TREATMENT OF TOBACCO QUOTA HOLDER**
 11 **COMPENSATION AND TRANSITION PAY-**
 12 **MENTS.**

13 (a) IN GENERAL.—Part II of subchapter B of chap-
 14 ter 1 of the Internal Revenue Code of 1986 (relating to
 15 items specifically included in gross income) is amended by
 16 adding at the end the following:

17 **“SEC. 91. CERTAIN TOBACCO PROGRAM PAYMENTS.**

18 “(a) GENERAL RULE.—Gross income includes
 19 amounts received under section 201 or 202 of the Tobacco
 20 Market Transition Act.

21 “(b) EXCEPTION FOR AMOUNTS TRANSFERRED
 22 DURING REINVESTMENT PERIOD.—

23 “(1) IN GENERAL.—Subsection (a) shall not
 24 apply to any amount if during reinvestment period
 25 such amount is—

1 “(A) used to make a qualified debt repay-
2 ment, or

3 “(B) transferred to a tobacco farmer indi-
4 vidual retirement account established under sec-
5 tion 522.

6 “(2) QUALIFIED DEBT REPAYMENT.—For pur-
7 poses of paragraph (1), the term ‘qualified debt re-
8 payment’ means the payment of debt incurred di-
9 rectly by the taxpayer to produce tobacco prior to
10 January 1, 1998.

11 “(c) CHARACTER OF INCOME.—For purposes of this
12 subtitle—

13 “(1) any amount received under section 201 of
14 the Tobacco Market Assistance Act and included in
15 gross income under this section shall be treated as
16 long-term capital gain or may be used to reduce the
17 basis in real estate to which the tobacco quota is at-
18 tached, and

19 “(2) any amount received under section 202 of
20 such Act and so included in gross income shall be
21 treated as ordinary income.”.

22 (b) TOBACCO FARMER INDIVIDUAL RETIREMENT AC-
23 COUNTS.—Part IV of subchapter F of chapter 1 of the
24 Internal Revenue Code of 1986 (relating to farmers’ co-
25 operatives) is amended by adding at the end the following:

1 **“SEC. 522. TOBACCO FARMER INDIVIDUAL RETIREMENT**
2 **ACCOUNTS.**

3 “(a) GENERAL RULE.—Except as provided in this
4 section, a tobacco farmer individual retirement account
5 shall be treated for purposes of this title in the same man-
6 ner as an individual retirement plan.

7 “(b) DEFINITIONS AND SPECIAL RULES.—For pur-
8 poses of this title—

9 “(1) TOBACCO FARMER INDIVIDUAL RETIRE-
10 MENT ACCOUNT.—The term ‘tobacco farmer individ-
11 ual retirement account’ means an individual retire-
12 ment plan (as defined in section 7701(a)(37)) other
13 than a Roth IRA which is designated (in such man-
14 ner as the Corporation may prescribe) at the time
15 of establishment of the plan as a tobacco farmer in-
16 dividual retirement account.

17 “(2) TREATMENT OF CONTRIBUTIONS.—

18 “(A) CASH ONLY.—No contribution will be
19 accepted unless it is in cash.

20 “(B) SOURCE OF CONTRIBUTIONS.—The
21 only contributions which will be accepted are—

22 “(i) payments under section 201 or
23 202 of the Tobacco Market Transition Act,
24 and

25 “(ii) trustee-to-trustee transfers to
26 such trust from another tobacco farmer in-

1 dividual retirement account of the account
2 beneficiary.

3 “(C) NO DEDUCTION ALLOWED.—No de-
4 duction shall be allowed under section 219 for
5 a contribution to a tobacco farmer individual
6 retirement account.

7 “(D) NO ROLLOVER CONTRIBUTIONS AL-
8 LOWED.—No rollover contribution may be made
9 to or from a tobacco farmer individual retire-
10 ment account.

11 “(3) TAX TREATMENT OF DISTRIBUTIONS.—
12 Any amount distributed from a tobacco farmer indi-
13 vidual retirement account attributable to payments
14 made under section 201 or 202 of the Tobacco Mar-
15 ket Transition Act (including earnings thereon) shall
16 be includible in the gross income of the distributee
17 under the rules described in section 91(c). Any such
18 distribution shall be made first from amounts in
19 such account (if any) attributable to payments under
20 such section 202 (and earnings thereon).

21 “(4) COORDINATION WITH INDIVIDUAL RETIRE-
22 MENT ACCOUNTS.—Section 408(d)(2) shall be ap-
23 plied separately with respect to tobacco farmer indi-
24 vidual retirement accounts and other individual re-
25 tirement plans.”.

1 (c) CONFORMING AMENDMENTS.—

2 (1) The table of sections for part II of sub-
3 chapter B of chapter 1 of the Internal Revenue Code
4 of 1986 is amended by adding at the end the follow-
5 ing:

“Sec. 91. Certain tobacco program payments.”.

6 (2) The table of sections for part IV of sub-
7 chapter F of chapter 1 of such Code is amended by
8 adding at the end the following:

“Sec. 522. Tobacco farmer individual retirement accounts.”.

9 (3) The heading for part IV of subchapter F of
10 chapter 1 of such code is amended by striking
11 **“FARMERS’ COOPERATIVES”** and inserting
12 **“CERTAIN FARMER ENTITIES”**.

13 (4) The table of parts for subchapter F of
14 chapter 1 of such Code is amended by striking
15 “FARMERS’ COOPERATIVES” and inserting “CERTAIN
16 FARMER ENTITIES”.

17 (d) EFFECTIVE DATE.—The amendments made by
18 this section shall apply to taxable years beginning after
19 December 31, 1997.

Automated Records Management System
Hex-Dump Conversion

1 **TITLE III—ESTABLISHMENT OF**
2 **PRIVATE TOBACCO PRODUC-**
3 **TION ADJUSTMENT AND**
4 **QUALITY ASSURANCE PRO-**
5 **GRAM**

6 **SEC. 301. TOBACCO PRODUCTION CONTROL CORPORATION.**

7 (a) **ESTABLISHMENT.**—There is established a cor-
8 poration to be known as the “Tobacco Production Control
9 Corporation”, which shall be a federally chartered instru-
10 mentality of the United States.

11 (b) **DUTIES.**—Effective for the 1999 and each subse-
12 quent crop of each kind of tobacco, on at least a two-thirds
13 vote of the Board of Directors of the Corporation, the Cor-
14 poration shall—

15 (1) promulgate rules that govern the produc-
16 tion, marketing, importation, exportation, and con-
17 sumer quality assurances for each kind of tobacco;

18 (2) establish a licensing system that provides
19 for the orderly production and marketing of tobacco
20 in the United States under which—

21 (A) the Corporation shall issue a license to
22 each active tobacco producer, or other person
23 that meets requirements established by the Cor-
24 poration, initially based upon the eligible pro-

1 duction quantity determined for each producer
2 under section 202(c)(1);

3 (B) the licensee shall surrender the license
4 to the Corporation if the licensee fails to ac-
5 tively engage in the production of tobacco;

6 (C) the sale or marketing of a type of to-
7 bacco which prior to the date of enactment was
8 produced pursuant to a tobacco farm marketing
9 quota or farm acreage allotment issued under
10 the Agricultural Act of 1938 is prohibited with-
11 out a license;

12 (D) the sale, lease, or other transfer of a
13 license shall be prohibited except pursuant to
14 subsection (c); and

15 (E) the Corporation shall issue marketing
16 licenses to tobacco marketing facilities and to-
17 bacco purchasing entities;

18 (3) ensure compliance, through whatever means
19 is available, of all persons with any license, regula-
20 tion, rule, limitation, or guideline issued under, or in
21 order to carry out, this Act;

22 (4) offer crop insurance for tobacco producers;

23 (5) establish a system that will provide assur-
24 ance to consumers of the quality of all tobacco mar-

1 keted in the United States and that, at a mini-
2 mum—

3 (A) provides for the inspection and grading
4 of domestically produced tobacco and imported
5 tobacco;

6 (B) determines and describes the physical
7 characteristics of domestically produced tobacco
8 and imported tobacco;

9 (C) ensures the physical and chemical in-
10 tegrity of domestically produced tobacco and
11 imported tobacco;

12 (6) carry out its duties, functions, and deter-
13 minations through loan associations and local com-
14 mittees, to the extent practicable and appropriate;
15 and

16 (7) continue to maintain and carry out a to-
17 bacco program in accordance with the rules and reg-
18 ulations contained in chapter 7 of the Code of Fed-
19 eral Regulations unless and until rules are promul-
20 gated under subsection (c).

21 (c) TRANSFER OF LICENSE.—

22 (1) RIGHT OF SURVIVORSHIP.—

23 (A) IN GENERAL.—In the case of the
24 death of a person to whom a license has been
25 issued under this section, the license shall

1 transfer to the surviving spouse of the person
2 or, if there is no surviving spouse, to surviving
3 direct descendants of the persons.

4 (B) **HARDSHIP.**—In the case of the death
5 of a person to whom a license has been issued
6 under this section and whose descendants are
7 temporarily unable to produce a crop of to-
8 bacco, the Corporation may hold the license in
9 the name of the descendants for a period of not
10 more than 18 months, at the discretion of the
11 Corporation.

12 (2) **LIFETIME TRANSFER.**—A person that is eli-
13 gible to obtain a license under this section may at
14 any time transfer all or part of the license to the
15 person's spouse or direct descendants that are ac-
16 tively engaged in the production of tobacco.

17 (d) **BOARD OF DIRECTORS.**—

18 (1) **IN GENERAL.**—The powers of the Corpora-
19 tion shall be vested in a Board of Directors.

20 (2) **MEMBERS.**—The Board of Directors shall
21 consist of 25 members as follows:

22 (A) The Secretary of Agriculture.

23 (B) The Secretary of Health and Human
24 Services.

1 (C) The Administrator of the Environ-
2 mental Protection Agency.

3 (D) The United States Trade Representa-
4 tive.

5 (E) 1 member from each state that pro-
6 duces more than 50,000,000 pounds of tobacco.
7 All members appointed under this subpara-
8 graph shall be actively engaged in the produc-
9 tion of tobacco and shall be elected by the to-
10 bacco producers from each respective state.

11 (F) 3 members appointed by the flue-cured
12 tobacco association and 2 members appointed
13 by the burley tobacco associations, all such
14 members to be licensees under this Act.

15 (G) 1 member appointed by tobacco asso-
16 ciations other than those specified in subpara-
17 graph (F), on a rotating basis.

18 (H) 3 members representing public health
19 interests, appointed by the Secretary of Health
20 and Human Services.

21 (I) 1 member representing domestic ciga-
22 rette manufacturers.

23 (J) 1 member representing domestic export
24 leaf dealers, appointed by the Leaf Tobacco Ex-
25 porters Association (LTEA).

1 (K) 2 members representing tobacco mar-
2 keting facilities, 1 each appointed by the Bright
3 Belt Warehouse Association (BBWA) and the
4 Burley Auction Warehouse Association
5 (BAWA).

6 (L) 1 member that is the person respon-
7 sible for operating the quality assurance system
8 of the Corporation described in subsection
9 (b)(4).

10 (M) 1 member who is a Dean of Agri-
11 culture of a Land Grant University from a to-
12 bacco producing state.

13 (3) MEMBERSHIP QUALIFICATIONS.—A member
14 of the Board shall not hold any Federal, State, or
15 local elected office.

16 (4) CHAIRPERSONS.—The Secretary of Agri-
17 culture shall serve as chairperson of the Board.

18 (5) EXECUTIVE DIRECTOR.—

19 (A) APPOINTMENT.—The Board shall ap-
20 point an Executive Director.

21 (B) DUTIES.—The Executive Director
22 shall be the chief executive officer of the Cor-
23 poration, with such power and authority as may
24 be conferred by the Board.

1 (C) COMPENSATION.—The Executive Di-
2 rector shall receive basic pay at the rate pro-
3 vided for level IV of the Executive Schedule
4 under section 5315 of title 5, United States
5 Code.

6 (6) OFFICERS.—The Board shall establish the
7 offices and appoint the officers of the Corporation,
8 including a Secretary, and define the duties of the
9 officers in a manner consistent with this section.

10 (7) MEETINGS.—

11 (A) IN GENERAL.—The Board shall meet
12 at least 3 times each fiscal year at the call of
13 a Chairperson or at the request of the Execu-
14 tive Director.

15 (B) LOCATION.—The location of a meeting
16 shall be subject to approval of the Execu-
17 tive Director.

18 (C) QUORUM.—A quorum of the Board
19 shall consist of a majority of the members.

20 (8) TERM; VACANCIES.—

21 (A) TERM.—The term of office of a mem-
22 ber of the Board appointed under any of sub-
23 paragraphs (E) through (K) of paragraph (2)
24 shall be 4 years.

1 (B) VACANCIES.—A vacancy on the Board
2 shall be filled in the same manner as the origi-
3 nal appointment was made.

4 (9) COMPENSATION.—

5 (A) FEDERAL MEMBERS.—A member of
6 the Board who is an officer or employee of the
7 United States shall not receive any additional
8 compensation by reason of service on the
9 Board.

10 (B) NON-FEDERAL MEMBERS.—Any other
11 member shall receive compensation, for each
12 day (including travel time) that the member is
13 engaged in the performance of the functions of
14 the Board, at a rate determined appropriate by
15 the Board.

16 (C) EXPENSES.—A member of the Board
17 shall be reimbursed for travel, subsistence, and
18 other necessary expenses incurred by the mem-
19 ber in the performance of the duties of the
20 member.

21 (10) CONFLICT OF INTEREST; FINANCIAL DIS-
22 CLOSURE.—

23 (A) CONFLICT OF INTEREST.—Except as
24 provided in subparagraph (C), a member of the
25 Board shall not vote on any matter concerning

1 any application, contract, or claim, or other
2 particular matter pending before the Corpora-
3 tion, in which, to the knowledge of the member,
4 spouse, or child of the member, partner of the
5 member, or organization in which the member
6 is serving as officer, director, trustee, partner,
7 or employee, or any person or organization with
8 which the member is negotiating or has any ar-
9 rangement concerning prospective employment,
10 has a financial interest.

11 (B) VIOLATIONS.—Violation of subpara-
12 graph (A) by a member of the Board shall be
13 cause for removal of the member, but shall not
14 impair or otherwise affect the validity of any
15 otherwise lawful action by the Corporation in
16 which the member participated.

17 (C) EXCEPTIONS.—The prohibitions con-
18 tained in subparagraph (A) shall not apply to
19 a member of the Board that is a tobacco pro-
20 ducer if the member advises the Board of the
21 nature of the particular matter in which the
22 member proposes to participate, and if the
23 member makes a full disclosure of the financial
24 interest, prior to any participation.

1 (D) FINANCIAL DISCLOSURE.—A Board
2 member shall be subject to the financial disclo-
3 sure requirements of subchapter B of chapter
4 XVI of title 5, Code of Federal Regulations (or
5 any corresponding or similar regulation or rul-
6 ing), applicable to a special Government em-
7 ployee (as defined in section 202(a) of title 18,
8 United States Code).

9 (E) REPRESENTATION.—No member of
10 the Board shall receive compensation from more
11 than one interest represented on the Board.

12 (11) BYLAWS.—The Board shall adopt, and
13 may from time to time amend, any bylaw that is
14 necessary for the proper management and function-
15 ing of the Corporation.

16 (12) PERSONNEL.—The Corporation may select
17 and appoint officers, attorneys, employees, and
18 agents, who shall be vested with such powers and
19 duties as the Corporation may determine.

20 (e) GENERAL POWERS.—In addition to any other
21 powers granted to the Corporation under this title, the
22 Corporation—

23 (1) shall have succession in its corporate name;

1 (2) may adopt, alter, and rescind any bylaw and
2 adopt and alter a corporate seal, which shall be judi-
3 cially noticed;

4 (3) may enter into any agreement or contract
5 with a person or private or governmental agency;

6 (4) may lease, purchase, accept a gift or dona-
7 tion of, or otherwise acquire, use, own, hold, im-
8 prove, or otherwise deal in or with, and sell, convey,
9 mortgage, pledge, lease, exchange, or otherwise dis-
10 pose of, any property or interest in property, as the
11 Corporation considers necessary in the transaction
12 of the business of the Corporation;

13 (5) may sue and be sued in the corporate name
14 of the Corporation, except that—

15 (A) no attachment, injunction, garnish-
16 ment, or similar process shall be issued against
17 the Corporation or property of the Corporation;
18 and

19 (B) exclusive original jurisdiction shall re-
20 side in the district courts of the United States,
21 and the Corporation may intervene in any court
22 in any suit, action, or proceeding in which the
23 Corporation has an interest;

24 (6) may independently retain legal representa-
25 tion;

1 (7) may provide for and designate such commit-
2 tees, and the functions of the committees, as the
3 Board considers necessary or desirable;

4 (8) may indemnify officers of the Corporation,
5 as the Board considers necessary and desirable, ex-
6 cept that the officers shall not be indemnified for an
7 act outside the scope of employment;

8 (9) may, with the consent of any board, com-
9 mission, independent establishment, or executive de-
10 partment of the Federal Government, including any
11 field service, use information, services, facilities, offi-
12 cials, and employees in carrying out this section, and
13 pay for the use, which payments shall be transferred
14 to the applicable appropriation account that incurred
15 the expense;

16 (10) may obtain the services and fix the com-
17 pensation of any consultant and otherwise procure
18 temporary and intermittent services under section
19 3109(b) of title 5, United States Code;

20 (11) shall have the rights, privileges, and immu-
21 nities of the United States with respect to the right
22 to priority of payment with respect to debts due
23 from bankrupt, insolvent, or deceased creditors;

24 (12) may collect or compromise any obligations
25 assigned to or held by the Corporation, including

1 any legal or equitable rights accruing to the Cor-
2 poration;

3 (13) shall determine the character of, and ne-
4 cessity for, obligations and expenditures of the Cor-
5 poration and the manner in which the obligations
6 and expenditures shall be incurred, allowed, and
7 paid, subject to provisions of law specifically applica-
8 ble to Government corporations;

9 (14) may make final and conclusive settlement
10 and adjustment of any claim by or against the Cor-
11 poration or a fiscal officer of the Corporation;

12 (15) may sell assets, loans, and equity interests
13 acquired in connection with the financing of projects
14 funded by the Corporation; and

15 (16) may exercise all other lawful powers nec-
16 essarily or reasonably related to the establishment of
17 the Corporation to carry out this title and the pow-
18 ers, purposes, functions, duties, and authorized ac-
19 tivities of the Corporation.

20 **SEC. 302. TOBACCO LOAN ASSOCIATIONS.**

21 The Corporation shall enter into an agreement with
22 producer-owned cooperative marketing loan associations
23 for each kind of tobacco to—

24 (1) make price support available to producers of
25 the kind of tobacco;

1 (2) carry out the licensing system established
2 under subsection (b)(2);

3 (3) arrange for financing and the administra-
4 tion of price supports for the kind of tobacco; and

5 (4) receive, process, store, and sell any domesti-
6 cally produced tobacco received as collateral for a
7 price support loan.

8 **SEC. 303. TOBACCO PRICE SUPPORT LEVELS.**

9 (a) INITIAL LEVEL.—Effective for the 1999 crop of
10 each kind of tobacco, the support level in cents per pound
11 established under this title shall be equal to—

12 (1) the simple average price received by produc-
13 ers of the kind of tobacco, as determined by the Cor-
14 poration, during the marketing years for the imme-
15 diately preceding 5 crops of the kind of tobacco; less

16 (2) the average return to quota for 1994
17 through 1998 crops of the kind of tobacco, as deter-
18 mined by the Corporation.

19 (b) SUBSEQUENT ADJUSTMENT.—The Corporation,
20 in consultation with the Associations, shall adjust and es-
21 tablish the support level for each kind of tobacco at an
22 appropriate level for each year after 1999.

23 **SEC. 304. PENALTIES.**

24 (a) IN GENERAL.—The violation of any provision of
25 this Act, or any rule or regulation issued to carry out this

1 Act, or the terms of any license issued under this Act,
2 by a person (including the marketing of any kind of to-
3 bacco without a license issued under this title or in excess
4 of the quantity permitted under such a license) shall sub-
5 ject the person to revocation or suspension of the person's
6 license, a penalty of 75 percent of the average market
7 price (calculated to the nearest whole cent) for the kind
8 of tobacco for the immediately preceding marketing year,
9 or both, in the discretion of the Secretary.

10 (b) PAYER.—

11 (1) IN GENERAL.—Except as otherwise pro-
12 vided in this subsection, the penalty shall be paid by
13 the person who acquired the tobacco from the pro-
14 ducer.

15 (2) DEDUCTION FROM PRICE.—An amount
16 equivalent to the penalty may be deducted by the
17 buyer from the price paid to the producer in any
18 case in which the tobacco is marketed by sale.

19 (3) WAREHOUSEMAN OR AGENT.—If the to-
20 bacco is marketed by the producer through a ware-
21 houseman or other agent, the penalty shall be paid
22 by the warehouseman or agent who may deduct an
23 amount equivalent to the penalty from the price paid
24 to the producer.

1 (4) DIRECT MARKETING OUTSIDE UNITED
2 STATES.—In any case in which tobacco is marketed
3 directly to any person outside the United States, the
4 penalty shall be paid and remitted by the producer.

5 (c) FALSE STATEMENT OR OMISSION.—If any pro-
6 ducer falsely identifies or fails to account for the dispo-
7 sition of any tobacco—

8 (1) an amount of tobacco equal to the normal
9 yield of the number of acres harvested in excess of
10 the quantity permitted under a license issued under
11 this title shall be considered to have been marketed
12 in excess of the license for the farm; and

13 (2) the penalty for the excess marketing shall
14 be paid and remitted by the producer.

15 (d) CARRYOVER.—Tobacco carried over by the pro-
16 ducer of the tobacco from 1 marketing year to another
17 marketing year may be marketed without payment of the
18 penalty imposed by this section if—

19 (1) the total quantity of tobacco available for
20 marketing from the farm in the marketing year from
21 which the tobacco is carried over does not exceed the
22 quantity that may be marketed under a license
23 issued for the farm for the marketing year; or

24 (2) the quantity of tobacco carried over does
25 not exceed the normal production of that number of

1 acres by which the harvested acreage of tobacco in
2 the calendar year in which the marketing year be-
3 gins is less than the quantity that may be marketed
4 under the license.

5 (e) TOBACCO MARKETED PRIOR TO MARKETING
6 YEAR.—Tobacco produced in a calendar year for the mar-
7 keting year beginning during the calendar year shall be
8 subject to licenses issued for the marketing year even
9 though the tobacco is marketed prior to the date on which
10 the marketing year begins.

11 (f) PROPORTIONAL PAYMENTS.—The Secretary shall
12 require collection of the penalty on a proportion of each
13 lot of tobacco marketed from the farm equal to the propor-
14 tion that the tobacco available for marketing from the
15 farm in excess of the quantity that may be marketed under
16 a license is of the total quantity of tobacco available for
17 marketing from the farm if satisfactory proof is not fur-
18 nished as to the disposition to be made of the excess to-
19 bacco prior to the marketing of any tobacco from the farm.

20 (g) LIEN.—Until the amount of the penalty provided
21 by this section is paid, a lien on the tobacco with respect
22 to which the penalty is incurred, and on any subsequent
23 tobacco subject to licenses issued under this title in which
24 the person liable for payment of the penalty has an inter-

1 est, shall be in effect in favor of the Corporation for the
2 amount of the penalty.

3 **SEC. 305. PROGRAM REFERENDA.**

4 (a) INITIAL REFERENDUM.—Not later than 3 years
5 after the date of enactment of this Act, the Corporation
6 shall conduct a referendum among licensees engaged in
7 the production of each kind of tobacco to determine wheth-
8 er such producers are in favor of continuing the operation
9 of the program established under this Act with respect to
10 that kind of tobacco. If more than one half of the licensees
11 voting oppose the continuation of the program, the Cor-
12 poration shall announce the result and shall conduct a sec-
13 ond referendum one year later. If more than one half of
14 the licensees voting in the second referendum also oppose
15 the continuation of the program, the Corporation shall an-
16 nounce the result and the program shall cease to be in
17 effect for that kind of tobacco.

18 (b) SUBSEQUENT REFERENDA.—The Corporation
19 may conduct subsequent referenda from time to time as
20 the Corporation deems appropriate to determine whether
21 producers are in favor of continuing the program estab-
22 lished under this Act, the use of marketing allotments and
23 quotas, limitations on transfer of quota, or any other as-
24 pect of the program.

- 1 (c) EFFECTIVE DATE.—This section shall be effective
- 2 1 year after the date of enactment of this Act.

○