

NLWJC - KAGAN

EMAILS RECEIVED

ARMS - BOX 039 - FOLDER -004

[10/10/1998 - 10/12/1998]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Paul D. Glastris (CN=Paul D. Glastris/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:10-OCT-1998 20:32:51.00

SUBJECT: draft of tomorrow's ed budget statement--comments back asap please (65716)

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

TO: Robert M. Shireman (CN=Robert M. Shireman/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TEXT:

Draft 10/10/98 8:30 pm
Paul Glastris

PRESIDENT WILLIAM J CLINTON
STATEMENT ON EDUCATION BUDGET
WHITE HOUSE
October 11, 1998

In only 447 more days, the 21st Century begins--a century in which the education of our nation's children will matter more than it ever has before. Yet far too many of our public schools are not ready for the 21st Century. We've all seen the news stories--about teacher college graduates who can't pass grammar tests; about schools so overcrowded they have trailers out back to handle the overflow; about classrooms with 35 or more students, all vying for a minute of attention from their stressed-out, overworked teachers.

This cannot go on. We cannot afford to wait if we are to give all of our children the first-class education they will need for the 21st Century. And yet we are waiting--for the Republican majority in Congress to bring this year's education investment bill up for a vote.

The delay must end. Congress must choose progress over partisanship, and I believe they can. Earlier this week I signed into law a strong, bipartisan bill to open the doors of college to millions. And in just the last two days Republicans and Democrats have worked together to pass strong charter school and vocational education measures, and I thank Senators Kennedy and Jeffords and Congressmen Gray and Goodling for that.

Now it is time for Congress once again to put progress ahead of partisanship and send me an education budget that I can sign tonight. That bill must make the right investments for our public schools. It must invest in more highly-trained teachers to bring class sizes down in the lower grades. It must invest in academically-enriched after school and summer school for students who are striving to meet high standards in the basics.

But most of all, this budget must invest in modernized schools for our children. We simply cannot raise students up in buildings that are falling down. Any budget that does nothing to help modernize our schools and give our children clean and safe places to learn is a budget that does not fully prepare our children for the 21st Century.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-OCT-1998 20:24:33.00

SUBJECT: testing stuff

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Below is a draft of an internal cover memo (please check address list) as well as the language itself.

Memo from Bruce/Mike

To: Larry Stein, Erskine, Jack Lew, Barbara Chow, Martha Foley, Broderick Johnson, Maria Echaveste and Elena (Have I left anyone off the list?)

Attached is language on national testing we have sent to Mr. Goodling, as a result of our meeting with him yesterday. The proposal includes (1) the Senate bill language (2) a new National Academy of Sciences study intended to address Goodling's concerns that more needs to be done to ensure that students have well prepared teachers before they are tested; and, (3) report language that addresses an additional Goodling concern, that tests not be used to compare school districts with each other. Our proposal would enable us to meet our key objective of conducting pilot tests this year.

Sec. ____ Notwithstanding any other provision of Federal law, funds provided to the Department of Education or to an applicable program may not be used to field test, implement or administer any federally sponsored national test in reading, mathematics, or any other subject: Provided, That the National Assessment Governing Board shall retain exclusive authority over the development of voluntary national tests as described in Section 307 of the Department of Education Appropriations Act, 1998.

Sec. ____ (a) STUDY -- The National Academy of Sciences shall conduct a study to identify the knowledge and skills teachers must have in order to prepare students effectively to meet national standards, and to identify the most effective approaches to teacher preparation and professional development to ensure that teachers possess the requisite knowledge and skills.

(B) REPORT OF FINDINGS TO CONGRESS -- The National Academy of Sciences shall report the results of the study to Congress by_____.

Report Language

The Committee bill includes language prohibiting the use of funds to field test, implement, or administer any federally sponsored national tests, or for engaging in any testing activity that would enable comparisons of test results among school districts.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-OCT-1998 20:24:42.00

SUBJECT: state settlement

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

TEXT:

Two news items from Gary Black: Timing slips to week of 10/26, and Scruggs's secret plan on Medicare rider isn't much of a secret.

October 9, 1998

HIGHLIGHTS

1. Anticipated timing of the new AG settlement has slipped to the week of 10/26. This was said to be due to a prior scheduling conflict by lead AG Gregoire, but may reflect additional time needed to get a critical mass of AGs behind the deal prior to its announcement. Or, it may reflect the industry needing time to digest what has become a very complex set of renegade provisions.

2. Our biggest fear is not the renegade issue (which the industry has overblown), or that states won't sign up (they want the money), but that after the deal is consummated, state legislators will pass legislation that imposes licensing fees -- but fail to give credits to companies who signed the accord. This would effectively raise taxes twice on deal signatories, and once on non-signatories. We don't believe the AG settlement can be voided, for instance, if a state passed a licensing law at odds with the spirit of the deal.

3. Washington update: Before Congress adjourns Monday, we could see efforts to attach two tobacco-related riders to the omnibus appropriations bill (which effectively allows the government to avoid shutting down in the absence of formal appropriations bills):

One rider sponsored by senators from Florida and Texas allows states to keep all of their tobacco settlement proceeds, rather than give the federal government its share under HCFA. This would increase the appeal of the new AG deal to the states.

Second rider clarifies a 1960s statute that the federal government can bring a Medicare

recovery action against the tobacco industry. Given no appetite by Republicans to bring new claims against the industry, odds of this passing are very low.

4. We reiterate outperform ratings on Philip Morris, RJR, and UST. While timing on this deal remains slippery, which naturally fuels investor uncertainty, we believe 1) there will be a new AG deal that will be supported by a critical mass of AGs announced within a few weeks; 2) Virtually all states will ultimately embrace the deal, given overall weakness of AG cases, and few suitable alternatives with which to put new regulations on the tobacco companies. Our expectation now is that stocks will not trade off when the deal is announced, given the short (7-14 day) opt-in period

ADDITIONAL DETAILS

1. Settlement update: Below, we have clarified some outstanding issues about which we have been asked on the new settlement:

Cost -- The cost to settle with the remaining 47 states (including Puerto Rico) will be about \$180 billion. This would bring the total cost of the deal to \$220 billion -- in line with our expectations, but higher than some analysts are predicting.

Renegade credits -- The exact mechanism by which renegade credits are allocated appears to be more of a compromise between PM and RJR than we had indicated in our note last week.

Credits would be allocated to those who actually lose share, but only to a certain threshold.

Once that threshold is crossed, the credits get divided based on market share.

Marketing restrictions -- The industry would agree to ban billboards and transit signs, product placements in movies, branded merchandise, and all but one sponsorship per manufacturer.

Size limits would be imposed on outdoor signage at retail and on signage that faces out of retail

locations (14 sq. feet). Cartoons would be banned in advertising, but not humans or animals.

Licensing fees -- The industry's goal is to get all of the states to pass licensing fees for

manufacturers who do not sign onto this accord. We believe the vehicle used would be that

each state would impose licensing fees for all manufacturers, but exempt manufacturers who

sign the new accord. This, combined with the provision that smaller manufacturers (under 3%

share) be a part of this agreement at no cost as long as they don't grow share, makes it difficult

to see why smaller players wouldn't sign this deal. If a renegade

joins, and holds share, he
 pays nothing. If a renegade doesn't join, and the state passes a
 licensing fee, the renegade will
 have to pay on all units sold, and not just those above last year's
 share.

State licensing incentives -- States that pass tobacco licensing
 laws, with credits for those who
 sign the accord, would be exempted from having to contribute to the
 renegade credit pool
 back to the industry if overall renegade share increases. The As more
 states adopt licensing
 provisions, the pressure grows for the remaining states to do the
 same -- or they will have to
 give back more of the payments. Example: If 30 states pass licensing
 provisions, the remaining
 20 states would split the costs of the renegade credits. If 40 states
 pass licensing provisions,
 10 states split the same costs of the renegade credits. If all 50
 states pass licensing laws, there
 would be no renegade credit. There would also be no renegade credit
 if share merely shifted
 from one of the signatories to another signatory (i.e., Philip Morris
 takes share from RJR).

Liggett -- We believe that Liggett (1.4% share) could void his
 agreements with most of the 47
 states involved in the new deal under most favored nations provisions
 in the old deals. This
 new deal, which allows Liggett to be covered at essentially no cost
 (for smaller players, any
 volume below last year's share is grandfathered in free), is better
 than Liggett's old deal, which
 compels Liggett to pay on average 27.5-30% of pretax profits to the
 42 states with whom
 Liggett has settled.

2. Bye, bye Congress. Congress is now expected to adjourn on Monday.
 Given the ongoing
 impeachment inquiry, the House will be adjourned subject to the call
 of the Speaker, which
 means House members will likely return for impeachment hearings after
 the Election. The
 Senate is effectively gone until January, beginning Monday.

There are two tobacco issues that could become riders on the omnibus
 appropriations bill that
 will be passed by Congress to keep Washington running in the absence
 of a formal budget:

Provision that allows states to keep all their Medicaid winnings.
 Senators from three of the
 four states that have settled with the industry (Bilirakis from FL,
 Bailey from TX, Lott from
 MS) have proposed a rider to be attached to the omnibus
 appropriations bill (to keep the
 government running) that would preclude the federal government from
 taking any percentage
 of funds that states receive from tobacco settlements. Under federal
 statutes governing

Medicaid (Title 19 of Social Security Act), the federal government is entitled to reclaim its Medicaid % contribution (on average, federal government pays 60% of each state's Medicaid bills, percentages vary from 50% - 80%) from states that get Medicaid reimbursement from third parties. We put high odds on this rider passing, given Lott's involvement. Clinton is unlikely to insist that the rider be struck. If passed, this will give a hostile state a further incentive to embrace the AG settlement, since they would get to keep their entire settlement amount, but have to give back the federal share if the state won a judgment at trial.

Provision that clarifies that federal government can sue the tobacco industry. Separately, anti-tobacco senators, egged on by plaintiff counsel Richard Scruggs, want to include a rider in this omnibus appropriations bill clarifying the federal government's authority to bring a direct action for Medicare recovery under statutes that govern Medicare (Title 18 of Social Security Act). Remember, Scruggs' plan was to get the federal government to bring a federal recovery claim, and then get the industry to settle with the federal government for \$150 - \$175 billion, with offsets for settlements or judgments for class actions, punitive damages, consolidations, and other exposures not covered by the AG settlement, but which were included in the original June 20 accord. Scruggs' incentive, of course, is probably higher fees for Scruggs. We put low odds on Richard Scruggs convincing Republicans to include a rider in this omnibus bill clarifying that the federal government can sue the tobacco industry.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-OCT-1998 01:26:55.00

SUBJECT: national test language/options

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

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

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

TEXT:

Below is my best cut at language that reflects our conversations after the Goodling meeting. I've basically created 4 sets of areas in which we could possibly make concessions:

1. Restrictions on Pilot Testing This set is where we would love to end up. It includes a new provision that explicitly bans pilot tests that permit comparisons among districts. The others are options we previously developed, to restrict pilot testing or both pilot and field tests that provide individual scores.

2. Restrictions on Implementation This set includes big concessions, in two ways. The first agrees that we need specific authorization before implementation, and tells NAGB to develop an implementation plan in time for NAEP/NAGB reauthorization.

The second approach prohibits states or districts from participating in the tests unless the file a certification with the Secretary that they are addressing the quality issues Goodling keeps raising. I've tried to draft this with some flexibility, so that the states and cities that have already signed up could plausibly meet this requirement. This would be the first time we have agreed to attach any "string" to the test.

I will ask ED for some drafting assistance on these two first thing in the am.

3. National Academy Studies. A new study on teacher quality for Goodling, and the old one on embedding NAEP items for his staff.

4. Budget Cuts. We can live with half of what we requested--though we will need more than \$8 million if we are going to pay for the NAS studies.

I am trying to get a better handle on study costs; to be safe I'd save \$1 million for each.

I. RESTRICTIONS ON PILOT TESTING

1. Senate Language with ban on comparisons among districts.
Sec. 305. Notwithstanding any other provision of Federal law, funds provided to the Department of Education or to an applicable program may not be used to field test, implement or administer any federally sponsored

national test in reading, mathematics, or any other subject, nor may any funds be used to conduct pilot tests that allow for comparisons of test results among school districts: Provided, That the National Assessment Governing Board shall retain exclusive authority over the development of voluntary national tests as described in Section 307 of the Department of Education Appropriations Act, 1998.

2. Restriction on Pilot Test With Individual Scores

Sec. ____ Notwithstanding any other provision of Federal law, no funds provided to the Department of Education or to an applicable program in this Act or in any other Act in fiscal year 1999 may be used for a pilot test that would yield individual student, school, school district, or state scores as part of the development of any federally sponsored voluntary national test in reading, mathematics, or any other subject, or to field test, implement or administer any such test; Provided, That the National Assessment Governing Board shall retain exclusive authority over the development of voluntary national tests as described in Section 307 of the Department of Education Appropriations Act, 1998.

3. Restriction on Pilot Test and Field Test With Individual Scores

Sec. ____ Notwithstanding any other provision of Federal law, no funds provided to the Department of Education or to an applicable program in this Act or in any other Act in fiscal year 1999 may be used for a pilot test or field test that would yield individual student, school, school district, or state scores as part of the development of any federally sponsored voluntary national test in reading, mathematics, or any other subject, or to implement or administer any such test; Provided, That the National Assessment Governing Board shall retain exclusive authority over the development of voluntary national tests as described in Section 307 of the Department of Education Appropriations Act, 1998.

II. RESTRICTIONS ON IMPLEMENTATION

4. No Implementation Without Authorization & NAGB Develops Plan for Test Implementation and Use

Sec. ____ Notwithstanding any other provisions of Federal law, funds provided to the Department of Education or to an applicable program may not be used to implement or administer any federally sponsored national test in reading, mathematics or any other subject that is not specifically and explicitly provided for in authorizing legislation enacted into law. The National Assessment Governing Board shall develop a plan for the continued development and implementation of national tests that measure individual student performance against National Assessment of Educational Progress standards in 4th grade reading and 8th grade mathematics. The plan shall include policies for the administration and use of national tests. In developing this plan, NAGB shall consider the feasibility of including items from the National Assessment of Educational Progress or other tests in state and district assessments to provide a measure of individual student performance against National Assessment of Educational Progress standards in 4th grade reading and 8th grade mathematics. NAGB shall present a written plan to the Committee on Education and Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the President for their consideration by ____ (prior to reauthorization of the National Assessment of Educational Progress).

5. No State or Local Implementation Without Quality Assurance

No state or local school district may participate in national tests unless it provides an assurance to the Secretary of Education that it has developed and is implementing a plan to (1) ensure that teachers have the knowledge and skills necessary to teach students to meet the NAEP standards; (2) provide all students with access to a challenging curriculum that can prepare them to meet the NAEP standards, (3) provide additional assistance to students and schools that do not make progress toward meeting the NAEP standards.

III. NATIONAL ACADEMY OF SCIENCES STUDIES

6. NAS Study on Embedding NAEP Items in State and Local Tests

The National Academy of Sciences shall conduct a study of the technical feasibility of including items from the National Assessment of Educational Progress or other tests in state and district assessments to provide a measure of individual student performance against National Assessment of Educational Progress standards in 4th grade reading and 8th grade mathematics and the quality of the information about a student's performance that would be provided to parents and teachers. The National Academy of Sciences shall report the results of the study to Congress by June 1, 1999.

7. NAS Study on Teacher Quality

The National Academy of Sciences shall conduct a study to identify the knowledge and skills teachers must have in order to effectively prepare students to meet national standards, and to identify the most effective approaches to teacher preparation and professional development to ensure that teachers possess the requisite knowledge and skills. The National Academy of Sciences shall report the results of the study to Congress by _____.

IV. BUDGET CUT

6. Propose reducing the appropriations for test development from \$16 to \$8 million. These funds have been requested in the Education Department's Fund for the Improvement of Education (FIE) account.

Note that we will need more than \$8 million if we are to conduct the NAS studies (I don't know the cost of these studies yet, but I would save \$1 million each to be on the very safe side.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-OCT-1998 22:25:59.00

SUBJECT: Drug Bills

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Bruce, Elena, Rahm:

Per Elena, I have skimmed the 4 drug bills put forth by the R's; here are my thoughts...

1. Mostly no big issues. In truth, there's not too much worth fighting for in these bills. The demand reduction bill, reauthorization proposal and miscellaneous resolutions, etc., don't seem to include any big surprises, we should be able to generally accept them. OMB has asked ONDCP and some of the agency folks to generally mark-up the bills with our preferred language, and Deich's thinking is whatever changes we get...fine. I agree w/that. I am not too versed on the supply bill, which mostly authorizes interdiction and international drug funds, but NSC is taking the lead on it.

2. One McCaffrey issue. McCaffrey's Chief of Staff expressed that the General, with some cleaning up, is generally okay with the bills, too. However, he strongly objects to the 3-year authorization proposed by the R's. He insists we should have 5 years and wants to be personally notified if we don't get this in negotiations....hmmm.

3. Two observations -- Goals, Legalization. The ONDCP reauthorization still includes pretty lofty goals for reducing drug use over the next 5 years. The goals are no longer binding, as in previous iterations of the bill, but I think they'll prove to be a future headache. Still, the R's are insistent, and ONDCP doesn't think we'll move them any more than we have. Also, I don't think we should make a big deal about language prohibiting the study of drug legalization. ONDCP doesn't think it precludes our ability to conduct certain research, but HHS is sure to disagree. I say mark-up the language and take what we get.

4. Two Possible opportunities. Lastly, I'm attaching language from bills that we support that I believe are worth putting into the mix. The first is our proposal to use prison funds for drug testing and intervention and to require states to raise penalties for drug trafficking into prisons. The second is an R's bill to launch a demo on teen drug testing and drivers licenses -- something we support and just can't seem to get going.

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D42]MAIL45419648D.226 to ASCII,
The following is a HEX DUMP:

FF57504332040000010A02010000000205000000ED15000000020000FCB0232E6E4CD42052640F
88806BEEC36E9CD3EC23B135D9E0A778AEF54F8F4DD63161DA3F5CB0E01B3E8347F856A98B5D45
8D8E285DD76BF1582B85C8FF79FEA6AFE8DD5BC10946464415952400FDC26BDA76CF42F79DD9E7

Drug Testing, Intervention, and Trafficking Reduction Within Prisons Act of 1998
(Introduced in the House)

HR 3606 IH

105th CONGRESS

2d Session

H. R. 3606

To provide for drug testing of and interventions with incarcerated offenders and reduce drug trafficking and related crime in correctional facilities.

IN THE HOUSE OF REPRESENTATIVES

March 31, 1998

Mr. CONYERS (for himself and Mr. BARRETT of Wisconsin) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To provide for drug testing of and interventions with incarcerated offenders and reduce drug trafficking and related crime in correctional facilities.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Drug Testing, Intervention, and Trafficking Reduction Within Prisons Act of 1998'.

SEC. 2. ADDITIONAL REQUIREMENTS FOR THE USE OF FUNDS UNDER THE VIOLENT OFFENDER INCARCERATION AND TRUTH-IN-SENTENCING GRANTS PROGRAM.

Section 20105(b) of the Violent Crime Control and Law Enforcement Act of 1994 is amended to read as follows:

'(b) ADDITIONAL REQUIREMENTS-

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'(1) ELIGIBILITY FOR GRANT- To be eligible to receive a grant under section 20103 or section 20104, a State shall--

'(A) provide assurances to the Attorney General that the State has implemented or will implement not later than 18 months after the date of the enactment of this subtitle, policies that provide for the recognition of the rights of crime victims;

and

'(B) no later than September 1, 1998, have a program of drug testing and intervention for appropriate categories of convicted offenders during periods of incarceration and criminal justice supervision, with sanctions including denial or revocation of release for positive drug tests, consistent with guidelines issued by the Attorney General.

'(2) USE OF FUNDS- Funds provided under section 20103 or section 20104 of this subtitle may be applied to the cost of offender drug testing and appropriate intervention programs during periods of incarceration and criminal justice supervision, consistent with guidelines issued by the Attorney General. Further, such funds may be used by the States to pay the costs of providing to the Attorney General a baseline study on their prison drug abuse problem. Such studies shall be consistent with guidelines issued by the Attorney General.

'(3) SYSTEM OF SANCTIONS AND PENALTIES- Beginning in fiscal year 2000, and thereafter, States receiving funds pursuant to section 20103 or section 20104 of this subtitle shall have a system of sanctions and penalties that address drug trafficking within and into correctional facilities under their jurisdiction. Such systems shall be in accordance with guidelines issued by the Attorney General. Beginning in fiscal year 2000, and each year thereafter, any State that the Attorney General determines not to be in compliance with the provisions of this paragraph, shall have the funds for which they would have otherwise been eligible to receive under section 20103 or section 20104, reduced by 10 percent for each fiscal year for which the Attorney General determines they do not comply. Any funds that are not allocated for failure to comply with this section shall be reallocated to States that comply with this section.'

SEC. 3. USE OF RESIDENTIAL SUBSTANCE ABUSE TREATMENT GRANTS TO PROVIDE FOR SERVICES DURING AND AFTER INCARCERATION.

Section 1901 of part S of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3796ff) is amended by adding at the end the following:

'(c) ADDITIONAL USE OF FUNDS- States that demonstrate that they have existing in-prison drug treatment programs that are in compliance with Federal requirements, may use funds awarded under this part for treatment and sanctions both during incarceration and

after
release.!

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Drug Free Teenage Drivers Act (Introduced in the House)

HR 3799 IH

105th CONGRESS

2d Session

H. R. 3799

To establish programs designed to bring about drug free teenage driving.

IN THE HOUSE OF REPRESENTATIVES

May 6, 1998

Mr. MICA (for himself, Mr. PORTMAN, Mr. HASTERT, Mr. SOUDER, Mr. MCCOLLUM, Ms. ROS-LEHTINEN, and Mr. GOSS) introduced the following bill; which was referred to the Committee on Transportation and Infrastructure

A BILL

To establish programs designed to bring about drug free teenage driving.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the 'Drug Free Teenage Drivers Act'.

SEC. 2. DEMONSTRATION PROGRAM.

The National Highway Traffic Safety Administration shall, within 180 days of the date of the enactment of this Act, establish a demonstration program in the States to provide voluntary drug testing for all teenager applicants (or other first time applicants for a driver's license regardless of age) for a driver's license. Information respecting an applicant's choice not to take the drug test or the result of the drug test on the applicant shall be made available to the applicant's automobile insurance company. If an applicant tests positive in the drug test, the State in which the program is established--

(1) will not issue a license to the applicant; and

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(2) will require the applicant to complete a State drug treatment program and to not test positive in a drug test before reapplying for a license.

SEC. 3. INCENTIVE GRANT PROGRAM.

(a) IN GENERAL- The Secretary of Transportation shall establish an incentive grant program to States to assist the States in improving their laws relating to controlled substances and driving.

(b) GRANT REQUIREMENTS- To qualify for a grant under subsection (a) a State shall do the following:

(1) Enact, actively enforce, and publicize a law which makes it illegal to drive in the State with any measurable amount of an illegal controlled substance in the driver's

body.

An illegal controlled substance is a controlled substance for which an individual does

not

have a legal written prescription. An individual who is convicted of such illegal driving shall--

(A) have the individual's driving license suspended until the individual completes the State drug treatment program referred to in subparagraph (B) and does not test positive in a drug test; and

(B) require the individual to participate in a State drug treatment program.

(2) Enact, actively enforce, and publicize a law which authorizes the suspension (for an appropriate term as determined by the State) of a driver's license if the driver is convicted of any criminal offense relating to drugs.

(3) Enact a law which provides that beginning driver applicants and other individuals applying for or renewing a driver's license will be provided information about the laws referred to in paragraphs (1) and (2) and will be required to answer drug-related questions on their applications.

(c) USE- A State may only use a grant under subsection (a) to implement and enforce the programs described in subsection (b).

SEC. 4. TECHNICAL ASSISTANCE.

The Secretary of Transportation shall provide to the States technical assistance for--

(1) training law enforcement officers in the Standardized Field Sobriety Testing

techniques to detect impaired drivers;

drug
prevention programs; and
prevention
programs.

(2) expanding drug information and training by involving prosecutors in community
(3) promoting uniform sanctions for drug offenses, referring drug offenders to assessment and treatment programs and involving judges in community drug programs.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-OCT-1998 21:57:50.00

SUBJECT: Brady Language

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

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

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

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

TEXT:
Bruce/Elena/Rahm:

Per my conversations w/Bruce and Elena today, attached please find the Brady languaged you requested. OMB, DOJ and DPC have all seen it, and can live with it -- and, based on my discussion w/Handgun Control, I think they'll be fine with it, too.

In short, the language would: (1) prohibit a fee for the next fiscal year; (2) allow records to be retained for 3 months; (3) provide for a transition period through 6/99; and (4) guarantee that NICS records are used only to ensure the integrity of the system.

Jose'

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

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D93]MAIL416986488.226 to ASCII,
The following is a HEX DUMP:

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E15785C6A2A2C9F7BFC8B39C1022B8E112A74600BB27CCF7B8E0E56F8D91D5F46B616C09299ABF
AAD70DC6D8B0A01AF07B33596C3363474D87C81C199BCBB521F46575E57CE64BD4B181AC790C2E

Brady Handgun Insta-Check System

“None of the funds appropriated pursuant to this Act or any other provision of law may be used for (1) the implementation of any tax or fee in connection with the implementation of 18 U.S.C. 922(t); (2) any system to implement 18 U.S.C. 922(t) that does not require and result in the destruction, within three months, of any identifying information submitted by or on behalf of any person who has been determined not to be prohibited from owning a firearm. Implementation of this retention limitation may be phased in over a period not to extend beyond June 30, 1999; at the end of this period all identifying information for non-prohibited individuals that exceeds the three month retention period must be destroyed. This section does not apply to State-operated systems for handgun checks. Provided further, that in implementing the NICS the following provision shall substitute for the requirement imposed on the system in 18 U.S.C. 922(t)(2)(C): “All background check information maintained in the NICS by the FBI submitted by or on behalf of a person which has been determined not to be prohibited from possessing a firearm shall be destroyed by the FBI not later than 90 days after the NICS makes such determination. Such information may be used by the FBI only for the purposes of protecting the privacy, security, and integrity of the NICS and identifying fraud in the use of the NICS. Such information may be maintained as long as needed to pursue identified cases of misuse of the NICS. A knowing violation of this provision shall be subject to the penalties provided for in 18 U.S.C. 924(a)(5). The Attorney General shall, within 90 days of the effective date hereof, promulgate regulation to implement this provision.””

**Automated Records Management System
Hex-Dump Conversion**

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-OCT-1998 20:24:45.00

SUBJECT: testing offer to Goodling ready to go

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Unable to convert ARMS_EXT:[MESSAGE.D37]MAIL44686648Z.226

The following is a HEX dump of the file:

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-OCT-1998 20:24:41.00

SUBJECT: new report language

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

We have not decided yet whether or not to include bracketed language.

Report Language

The Committee bill provides that the National Assessment Governing Board retains exclusive authority over the policies, direction and guidelines for voluntary national tests for 4th grade reading and 8th grade math. The bill includes language prohibiting the use of funds to field test, implement, or administer any federally sponsored national tests. This qualification is intended to preclude the use of funds for testing activity that would enable comparisons of test results among school districts [or that would yield individual student, school, school district, or state scores]. [It is not intended to prevent NAGB from continuing to develop test items and in so doing to take the steps necessary to determine how well students will understand and interpret the questions and if individual test questions are appropriate for the grade level, measure the content they are supposed to measure, are too easy or too difficult for the target population, assess the range of skills and abilities of all students, and contain ethnic, racial or gender bias.]

The Committee bill also provides that the National Academy of Sciences conduct a study to determine the knowledge and skills teachers must have in order to prepare students effectively to meet the national standards as measured by NAEP and the national test. It also provides that the study identify the most effective approaches to teacher preparation and professional development to ensure that teachers possess the requisite knowledge and skills. The Committee recognizes that students will not be able to meet challenging standards or do well on any test that measures them against challenging standards unless their teachers have the knowledge, skills and preparation to teach them effectively. Particularly in high poverty schools and communities, students often do not have teachers who are fully certified, or adequately prepared. This study is intended to provide states, school districts, institutions of higher education and teacher preparation programs with the information necessary to provide students with the well-prepared teachers they need.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Dana C. Strand (CN=Dana C. Strand/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:11-OCT-1998 20:24:44.00

SUBJECT: Cancer Event Memo...

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

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

TEXT:

David Goodfriend asked me to e-mail you both to let you know that the Cancer Event Memo for Monday October 12th will not have any policy information included in it. You need not review it. Thanks!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-OCT-1998 13:28:05.00

SUBJECT: Education Event Tomorrow

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

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

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

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

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

TEXT:

Right now the plan for tomorrow is that the President will make an education statement at an elementary school in Montgomery County in Wynn's district. The President will tour a classroom and then make a statement outdoors to approximately 100 people including NEA/AFT and other school modernization advocates. The proposal is for the President to speak and for Daschle, Gephardt, Glendening, and Wynn, etc. to stand by side and not speak. (Leg. is checking w/ the leadership to see if they will agree to that.)

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 12-OCT-1998 15:19:14.00

SUBJECT: revised ebb memo and fallbacks

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

READ: UNKNOWN

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

READ: UNKNOWN

TEXT:

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

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

TEXT:

Unable to convert ARMS_EXT: [ATTACH.D52]MAIL476848487.226 to ASCII,
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EF54CF5E5C4CFDECE688FC61EA2C57D97137493F911B3D42F2625355BAA7DB3B10AA6B4C660004

October 12, 1998

MEMORANDUM FOR ERSKINE BOWLES

Automated Records Management System
Hex-Dump Conversion

FROM: Bruce Reed

SUBJECT: Negotiations on National Testing

We're getting nowhere with Goodling on national tests. We met with him Saturday, offered a compromise yesterday, and were told today that Goodling remains unwilling to budge from his demand for a ban on pilot testing of any sort. We offered to meet with Goodling again, but were told that Goodling met with Lott, Armev, and Gingrich today, and has their support for holding firm.

Our offer would have permitted NAGB to conduct pilot testing as planned, but also clarified that the type of testing Goodling indicated was of greatest concern to him--tests that would enable comparisons among school districts to be made--would not be allowable this year.

We are prepared to make additional concessions, which are outlined below. But none of these will be enough to satisfy Goodling unless he is told by the leadership that this is the best he can do.

The central issue is over pilot testing. Last year's provision allowed NAGB to continue test development but banned pilot testing in FY98. In order to keep the test on schedule for implementation in 2001, NAGB needs to be able to pilot test individual test items to see whether they work. Because students will be given only a sample of items, this pilot testing will not produce scores for individuals, schools, districts, or states. The pilot test will only involve about 20,000 students nationwide.

We could agree to ban any pilot testing that produces scores for individuals, schools, districts, or states (see Option 1 below). But an absolute ban on pilot testing, as Goodling continues to demand, would kill the test.

Attached are our fallback options for further negotiations. Each of them permits pilot testing to occur as planned.

Option 1 prohibits any testing this year that would enable individual scores or comparisons among school districts. It also includes an additional NAS study that would examine the feasibility of including test items from NAEP into state or local tests, to determine if it will be possible for a state or school district to use its own test instead of the

nationa test.

Option 2, to be offered in addition to Option 1, would require a state or school district to certify to NAGB that it has qualified teachers, an appropriate curriculum, and extra help for students and schools, before it can give the tests. This responds to Goodling's concerns that the test shouldn't be given until we know children can pass them. It will also appeal to the CBC.

Option 3 is as far as we can go. It would permit pilot testing as planned, but would not permit test implementation to occur unless specifically authorized by Congress. This would be a major concession to Goodling--and would force us to have a virtually unwinnable authorization fight next year.

One final relevant piece of information for your discussions with the Republican leadership: In Penn's polling on whether voters would support the President for vetoing over contentious riders, a veto over language that banned the national test was the most popular by far -- 60-32% among all voters, 57-39% among independents. In Penn's polling, the test is even more popular than the environment.

Option 1

Sec. ____ Notwithstanding any other provision of Federal law, funds provided to the Department of Education or to an applicable program may not be used to field test, implement or administer any federally sponsored national test in reading, mathematics, or any other subject, or to engage in any other testing activity that would enable comparisons of test results among school districts: Provided, That the National Assessment Governing Board shall retain exclusive authority over the development of voluntary national tests as described in Section 307 of the Department of Education Appropriations Act, 1998.

AND

NAS Study on Embedding NAEP Items in State and Local Tests

The National Academy of Sciences shall conduct a study of the technical feasibility of including items from the National Assessment of Educational Progress or other tests in state and district assessments to provide a measure of individual student performance against National Assessment of Educational Progress standards in 4th grade reading and 8th grade mathematics and the quality of the information about a student's performance that would be provided to parents and teachers. The National Academy of Sciences shall report the results of the study to Congress by June 1, 1999.

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Option 2 (in addition to Option 1)

No State or Local Implementation Without Quality Assurance

No State or local educational agency receiving financial assistance from the Secretary of Education may participate in any national test in 4th grade reading or 8th grade mathematics that is supported by the Secretary and that measures individual student performance against standards of the National Assessment of Educational Progress unless the State or local educational agency, as the case may be, certifies to NAGB that it has developed, and has begun to carry out, a plan to--

(1) ensure that teachers have the knowledge and skills they need to teach students to meet those standards;

(2) provide all students with access to a challenging curriculum that can prepare them to meet those standards; and

(3) provide additional assistance to students and schools that do not make progress toward meeting those standards.

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Option 3 (in addition to Options 1 & 2)

No Implementation Without Authorization & NAGB Develops Plan for Test Implementation and Use

Sec. ____ Notwithstanding any other provisions of Federal law, funds provided to the Department of Education or to an applicable program may not be used to implement or administer any federally sponsored national test in reading, mathematics or any other subject that is not specifically and explicitly provided for in authorizing legislation enacted into law. The National Assessment Governing Board shall develop a plan for the continued development and implementation of national tests that measure individual student performance against National Assessment of Educational Progress standards in 4th grade reading and 8th grade mathematics. The plan shall include policies for the administration and use of national tests. In developing this plan, NAGB shall consider the feasibility of including items from the National Assessment of Educational Progress or other tests in state and district assessments to provide a measure of individual student performance against National Assessment of Educational Progress standards in 4th grade reading and 8th grade mathematics. NAGB shall present a written plan to the Committee on Education and Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the President for their consideration by _____ (prior to reauthorization of the National Assessment of Education Progress).

Automated Records Management System
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Could be used to sweeten any fallback option

Propose reducing the appropriations for test development from \$16 to \$8-10 million.
These funds have been requested in the Education Department's Fund for the Improvement of Education (FIE) account. (Keep 10 million if we do both NAS studies)

Automated Records Management System
Hex-Dump Conversion

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-OCT-1998 12:42:26.00

SUBJECT: revised fallback

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

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

TEXT:

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

TEXT:

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573F6491B5EE3D723327AC41BD2A62F7EB17908F5E2C06E4FD9E3EEDA9B0296EC24EE75ACD724F
AF88785E691D9AD3751CD9871E97D2962EF60A839CF1075C8688D8CC951799E2330CD82F88E6F6

Fallback 1

Sec. ____ Notwithstanding any other provision of Federal law, funds provided to the Department of Education or to an applicable program may not be used to field test, implement or administer any federally sponsored national test in reading, mathematics, or any other subject, or to engage in any other testing activity that would enable comparisons of test results among school districts: Provided, That the National Assessment Governing Board shall retain exclusive authority over the development of voluntary national tests as described in Section 307 of the Department of Education Appropriations Act, 1998.

AND

5. NAS Study on Embedding NAEP Items in State and Local Tests

The National Academy of Sciences shall conduct a study of the technical feasibility of including items from the National Assessment of Educational Progress or other tests in state and district assessments to provide a measure of individual student performance against National Assessment of Educational Progress standards in 4th grade reading and 8th grade mathematics and the quality of the information about a student's performance that would be provided to parents and teachers. The National Academy of Sciences shall report the results of the study to Congress by June 1, 1999.

Automated Records Management System
Hex-Dump Conversion

Fallback 2

No State or Local Implementation Without Quality Assurance

No State or local educational agency receiving financial assistance from the Secretary of Education may participate in any national test in 4th grade reading or 8th grade mathematics that is supported by the Secretary and that measures individual student performance against standards of the National Assessment of Educational Progress unless the State or local educational agency, as the case may be, certifies to the Secretary that it has developed, and has begun to carry out, a plan to--

- (1) ensure that teachers have the knowledge and skills they need to teach students to meet those standards;
- (2) provide all students with access to a challenging curriculum that can prepare them to meet those standards; and
- (3) provide additional assistance to students and schools that do not make progress toward meeting those standards.

**Automated Records Management System
Hex-Dump Conversion**

Fallback 3

No Implementation Without Authorization & NAGB Develops Plan for Test Implementation and Use

Sec. ___ Notwithstanding any other provisions of Federal law, funds provided to the Department of Education or to an applicable program may not be used to implement or administer any federally sponsored national test in reading, mathematics or any other subject that is not specifically and explicitly provided for in authorizing legislation enacted into law. The National Assessment Governing Board shall develop a plan for the continued development and implementation of national tests that measure individual student performance against National Assessment of Educational Progress standards in 4th grade reading and 8th grade mathematics. The plan shall include policies for the administration and use of national tests. In developing this plan, NAGB shall consider the feasibility of including items from the National Assessment of Educational Progress or other tests in state and district assessments to provide a measure of individual student performance against National Assessment of Educational Progress standards in 4th grade reading and 8th grade mathematics. NAGB shall present a written plan to the Committee on Education and Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the President for their consideration by _____ (prior to reauthorization of the National Assessment of Education Progress).

Could be used to sweeten any fallback option

Propose reducing the appropriations for test development from \$16 to \$8-10 million.

These funds have been requested in the Education Department's Fund for the Improvement of Education (FIE) account. (Keep 10 million if we do both NAS studies)

Automated Records Management System
Hex-Dump Conversion

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ron Klain (CN=Ron Klain/O=OVP [UNKNOWN])

CREATION DATE/TIME:12-OCT-1998 15:58:24.00

SUBJECT: After-School Announcements

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

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

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

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

TEXT:

The other day, Bruce mentioned that we should be able to quickly announce After-School grants as soon as Congress OKs the money. Given the VP's strong interest in this piece of the Child Care Initiative, we'd obviously love to have him participate in this -- either here in a WH ceremony, or, on the road in an area where there will be winners. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-OCT-1998 11:04:36.00

SUBJECT:

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

TEXT:

please call jen 6-2599

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-OCT-1998 23:46:26.00

SUBJECT: class size counter offer draft

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

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

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

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

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

CC: Mike_Smith@ed.gov (Mike_Smith@ed.gov @ inet [UNKNOWN])
READ:UNKNOWN

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

TEXT:

This is the late night OMB/Cohen draft. Let's see what it looks like in
the morning.===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D94]MAIL432032587.226 to ASCII,
The following is a HEX DUMP:

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```

PROPOSED MODIFICATIONS TO THE GORTON/GOODLING DRAFT PROPOSAL FOR LOCAL TEACHER QUALITY GRANTS

NEW LANGUAGE IN ITALICS; DELETIONS WITHIN BOLD BRACKETS

Local Teacher Quality *and Class Size Reduction* Grants

Purpose

Amends Title VI of the Elementary and Secondary Education Act to create a new Part D. The purpose of this new part is to provide funds to local educational agencies to allow such agencies to hire high quality teachers, including special education teachers, [and] reduce class size *in the early grades to a national goal of 18, and raise student achievement.*

Use of Funds Part D

Local educational agencies shall use funds made available under this section *to improve teacher quality, reduce the number of children in regular classes, and raise student achievement through* [for] one or more of the following activities:

- Hiring new high quality teachers who have successfully completed an academic major in the subject area in which they plan to teach and possess strong teaching skills;
- Hiring new high quality teachers through State and local alternative teacher certification procedures;
- Reducing class size by increasing the ratio of classroom teachers to students;
- Providing professional development to teachers to teach special needs children [and to reduce the costs associated with teaching children identified as special education students];
- Providing professional development to teachers consistent with Title II of the Higher Education Act Amendments of 1998;
- [Providing for the acquisition and use of instructional and educational materials to assist classroom teachers to improve students achievement; or,]
- [Providing for teacher] *Testing new teachers using State competency exams based on the subject areas taught by the teacher, or content deemed appropriate by the State for elementary school teachers.*

Funding Limitation

- None of these funds shall be used to increase the salaries or provide additional benefits to

currently employed teachers.

- *No local education agency may use more than 5 percent of its allocation for local administrative costs.*

Special Priorities

- In hiring new quality teachers under this section, local educational agencies may give priority to hiring new special education teachers, *teachers of Limited-English proficient students, teachers in subject areas with a shortage of qualified teachers, and teachers in schools with large class sizes.*

Funding Formula

- Over and above the money currently allocated to Title VI activities, an additional \$1.1 billion will be dispersed pursuant to this part.
- For purposes of this part, the State educational agency shall distribute 100 percent of these funds directly to local educational agencies based upon the formula *in the title I of the Elementary and Secondary Education Act adjusted for the hold-harmless provision* [under this section (this is the current Title VI formula which is distributed based on student enrollment in public and private nonprofit schools within the local education agency based on the following criteria:

Children living in areas with high concentrations of low income families;
Children from low income families; and
Children living in sparsely populated areas.)]

Application Process

There will be no new application required. Instead, Local Education Agencies will submit to the State, in its application for funds under Title VI, a description of how they will meet the requirements of this part. The State shall be responsible for ensuring compliance by the local education agencies.

Annual Public Report Card

- *At the end of each school year in which a school receives funds under this program, the local education agency shall issue a report card on that school to parents and the general public. The report card shall provide clear, and easily understandable information on (1) class size reduction goals in grades 1-3 and other grade levels determined by the LEA, (2) actual class sizes that year (3) teacher certification, licensure and related academic qualifications for teachers, (4) student achievement levels in reading in grades 1-3, and in other grade levels and subject areas determined by the local education agency.*

- *Based on the public report card the state may require a local education agency to take appropriate corrective actions as a condition for continued receipt of funds.*

Local Control

If the local education agency [decides] *determines* by an affirmative approval of the local school board, that it [do not need funds] *has met its goals for reducing class size and raising student achievement* [under this part for the purposes of hiring quality teachers and reducing class size,] then the local educational agency can spend these funds on activities under section 6301.

Automated Records Management System
Hex-Dump Conversion

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-OCT-1998 17:00:55.00

SUBJECT: FYI - tomorrow's event site

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

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

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

TEXT:

----- Forwarded by Christa Robinson/OPD/EOP on 10/12/98
05:09 PM -----

Laura A. Graham
10/12/98 03:17:55 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: Stephanie S. Streett/WHO/EOP
Subject: Where we are w/tomorrow

We are on our way to look at Chesterbrook Elementary School in McLean, VA. It is either in Davis or Wolf's District (which Leg is confirming which one). It has 8 trailers, 2 of which are used for normal classes, 2 for afterschool programs and a few for disabled students. There is also school construction going on at the site so NEC thought we could tour the trailers as well as the construction site before making the statement. Gephardt's office found this school through their contact. I have talked with the principal who welcomes the possibility of a presidential visit. Gephardt's office also spoke with the Superintendent Dan Dominch who is the same guy Mike Cohen tried, but could not, reach. The superintendent welcomes the visit as does the Chairman of the School Board who they also spoke with. Hill leadership does not want to do Maryland b/c of the messy politics on this issue. Also, Counsel's office has ruled that if we go to Maryland the event is political so a campaign entity would have to fund this which is another reason to see if this VA school works b/c it would be an official event that Education could pay for.

I could not reach everyone so that is why I sent this update around. We will not confirm until the advance team returns from the site. Thanks.

Message Sent

To: _____
Stacie Spector/WHO/EOP
Michael Cohen/OPD/EOP
Anne M. Edwards/WHO/EOP
Jennifer M. Palmieri/WHO/EOP

Jake Siewert/OPD/EOP
Marjorie Tarmey/WHO/EOP
Karin Kullman/WHO/EOP
Joshua S. Gottheimer/WHO/EOP
Christa Robinson/OPD/EOP
Christopher J. Lavery/WHO/EOP
Craig Hughes/WHO/EOP
Patrice L. Stanley/WHO/EOP
Broderick Johnson/WHO/EOP
Elisa Millsap/WHO/EOP
Lisa J. Levin/WHO/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-OCT-1998 16:31:24.00

SUBJECT: Rep. Sheila Jackson-Lee Request

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Jacob J. Lew (CN=Jacob J. Lew/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TO: Erskine B. Bowles (CN=Erskine B. Bowles/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Rep. Sheila Jackson-Lee just called to strongly request that in lieu of the recent brutal killing of Matthew Shepard of Wyoming, we push hard to include the Administration's Hate Crimes legislation (H.R. 3081) into the final omnibus appropriations bill. She asked me to call her back as soon as possible with feedback from our principals on the prospects for this happening. JM.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-OCT-1998 23:14:26.00

SUBJECT: School Safety Conference

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

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

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

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

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

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

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

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

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

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

TEXT:
BR, EK, et.al:

Attached please find a 3-page dump of what is in the school safety report and how (more or less) it ties to our announcements. It needs to be cleaned up and -- of course -- are policy announcements aren't 100% nailed down...so consider this in draft form. Please let me know your reactions. There's a lot of other paper being prepared that we may or may not use, but this pretty much distills what we're working with. I'm sure the agencies will hate it...jc3

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

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D60]MAIL428822581.226 to ASCII,
The following is a HEX DUMP:

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4577278D0A99E36DFD880DD0C684D68FAECF9581D4F564D339B1CB093F3FCDFDAB1721B15B7DF5

THE WHITE HOUSE CONFERENCE ON SCHOOL SAFETY

- **The White House Conference on School Safety.** Although schools are generally safer today than they were just a few years ago -- and statistics show that students are safer sitting in a classroom than walking down a street -- there is still much more that we can do to improve school safety and security. In particular, the multiple shootings that took place in schools in Pearl, MS, Paducah, KY, Jonesboro, AK, and Springfield, OR, serve as painful reminders that no community is immune from senseless violence -- and that all communities must do their best to prevent such tragedies from ever occurring. The White House Conference on School Safety provides an opportunity for Americans to learn more about how they can make their own schools and communities safer.
- **Unveiling the First Annual Report on School Crime and Safety.** The first step in addressing school safety is for all of us to better understand the nature and magnitude of the problem. At the conference, the President will unveil the first Annual Report on School Crime and Safety -- a report intended to give parents, principals and policy makers an accurate, yearly snapshot of the school crime, as well as to provide information on what practical steps they can take to make their schools safer.

Major Findings of the Report:

Students less likely to be victimized but more likely to feel unsafe. Although the number of multiple homicides at schools has increased since 1993 (from 2 to 6 -- and with 4 times as many victims), the overall crime rate has actually dropped (from 164 crimes per 1,000 students in 1993 to about 128 such crimes in 1996). However, the percentage of students reporting that they felt unsafe at or on their way to school has increased.

Most schools are safer than community at large. While the overall level of school and non-school crime is about the same (about 3 million crimes in each setting), students are more than twice as likely to experience serious violent crime while out of school. And the very worst violent victimizations -- murders and suicides -- rarely occur in or near schools. Fewer than 1% of the 7,357 thousand children who were murdered in 1992-93 -- or 63 -- were killed at school.

Serious crime and violence concentrated in a small percentage of schools. Only about 10% of public schools report serious or violent crimes to their local police departments. Nearly half -- or 47% -- of schools report less serious or non-violent crimes to police, and 43% report absolutely no crimes at all.

Violence more likely in larger, urban schools and with older students. One third of large schools (1,000+ students) report serious violent crimes to police, compared with less than .1% for small schools. Also urban schools are twice as likely than rural schools to report serious violent crimes, and middle and high schools are 4 times more likely than elementary schools to report such crimes.

Fist fights, theft and vandalism are the most common crimes. Overall, physical attacks and fights without weapons are the crimes most often reported to police by middle and high schools. Vandalism is the most common crime reported by elementary schools. In total, during the 1997 school year, there were nearly 20 times more of these crimes reported by schools than more serious violent crimes -- such as rape, robbery and attacks with weapons.

Other Important Findings:

Fewer weapons in schools. About 6% of high school seniors -- less than in recent years -- are carrying firearms and other weapons to schools. Also, the percentage of seniors intentionally injured -- with or without weapons -- has not changed significantly over the past 20 years.

Gang presence has nearly doubled. Between 1989 and 1995, the percentage of students reporting the presence of street gangs in their schools increased from 15% to 28% -- including large increases at urban, suburban and rural schools.

Violence and drugs linked. Students who reported being the victims of violent crimes were more likely to report the availability of drugs at school. The same is true for students involved with gangs and guns.

Teachers often crime victims. Nearly 30% of teachers experience theft, and another 10-15% are the victims of violent crimes.

- **The President's Call to Action.** During a panel discussion with a group of recognized school safety advocates and youth violence experts, the President will announce a series of new initiatives that address many of the problems identified in the Annual Report on School Crime and Safety. Specifically, he will propose:

(1) A New Federal Response for Violent Deaths in Schools. Over the past year we have learned that few, if any, communities are truly prepared to respond to multiple school shootings like the ones that took place in Pearl, MS, Paducah, KY, Jonesboro, AK, and Springfield, OR. In addition to the devastating impact on victims and their families, these tragic events forced the affected communities to divert scarce resources to urgent but unplanned activities (i.e., increased security, ongoing counseling and more). Accepting a recommendation put forth by the communities impacted by the recent school shootings, the President will announce his support for the establishment of a \$12 million Emergency Response Fund and of a multi-agency School Emergency Response to Violence Team (Team SERV). Team SERV's mission will be to ensure an improved, coordinated federal response to school-associated violent deaths.

(2) Targeted Resources for Schools with Serious Crime Problems. For the estimated 10% of schools with serious crime problems, we must deploy tough,

smart strategies that put our children's security first by: showing zero tolerance for gangs, guns and drugs in and near schools; using metal detectors to keep weapons out of schools; partnering and sharing information with local law enforcement and juvenile justice authorities; and working with local community police to better address school-related crime problems. To help launch such efforts locally, the President will announce a new \$65 million initiative for schools and communities with serious crime and violence problems to hire and train as many as 2,000 community police and school resource officers. [Building on his efforts to crack down on gun traffickers, the President also directed the Secretary of the Treasury, Attorney General, and Secretary of Education to develop a plan to ensure that all firearms recovered on or near school premises are traced to their original point of purchase.]

(3) Reforms to Help Make All Schools Safe, Disciplined and Drug-Free . As the Annual Report on School Crime and Safety shows, the problems facing most schools include lesser crimes and lack of discipline. To help these schools develop the comprehensive, school-wide plans they need to prevent serious crime, violence and drug use from taking hold, the President will call for significant reforms to the federal government's Safe and Drug-Free Schools Program. He will propose that federally funded school safety and anti-drug programs include: tough, but fair, discipline policies; plans for secure schools and safe pathways; intervention for troubled youth; annual school report cards; effective prevention, after school programs and anti-drug policies; parental involvement; and crisis management plans.

(4). Community-Wide Response to School Safety and Violence. While we may never understand what drove a handful of children to turn and open fire on their classmates, teachers and families, we can -- and should -- commit ourselves to do everything possible to prevent such violent tragedies from every taking place. To help promote a coordinated, community-wide response to school safety throughout the country, the President will announce a new interagency initiative designed to help communities develop comprehensive, community-wide school safety strategies by submitting one application for a series of youth violence grant programs. This new "Safe Learning Environments" initiative will provide at least \$25 million to help 10 communities put such comprehensive strategies into place. The President will also kick-off an MTV-sponsored, year-long media campaign on school safety and youth violence.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-OCT-1998 19:35:09.00

SUBJECT: goals/vi REVISED

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Here is the Goals 2000 language from OMB. It does exactly what the memo to Erskine says it does. I think its worth trading for another year of test develoment/pilot testing, though at some point soon we may be better off holding on to what we have in Goals 2000, losing on the test, and letting the President make the case to the country that we are for higher standards, tests and accountability and they are not. Somedays it seems that might be worth more than pilot tests.

----- Forwarded by Michael Cohen/OPD/EOP on 10/12/98
07:30 PM -----

Barbara Chow

10/12/98 07:27:54 PM

Record Type: Record

To: Michael Cohen/OPD/EOP

cc: Wayne Upshaw/OMB/EOP

Subject: goals/vi REVISED

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

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

TEXT:

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15A326B8697BCC56E7593815E3E0CBAAD0EF26341DF6BCA6378B5AA483A66BFFB86892A156EAD1

AUTHORIZING STATES AND LOCAL EDUCATIONAL AGENCIES TO USE GOALS 2000 FUNDS FOR TITLE VI PURPOSES

_____. Title III of The Goals 2000: Educate America Act is amended as follows:

“(a) At the end of section 308(b)(2) [relating to State Use of Funds], add:

(N) supporting technology related to the implementation of school based reform programs, including professional development to assist teachers and other school officials regarding how to use effectively such equipment and software;

(O) supporting programs for the acquisition and use of instructional and educational materials, including library services and materials (including media materials), assessments, reference materials, computer software and hardware for instructional use, and other curricular materials which are tied to high academic standards and which will be used to improve student achievement and which are part of an overall education reform program;

(P) supporting promising education reform projects including effective schools and magnet schools;

(Q) supporting programs to improve the higher order thinking skills of disadvantaged elementary and secondary school students and to prevent students from dropping out of school;

(R) supporting programs to combat illiteracy in the student and adult population, including parent illiteracy;

(S) supporting programs that provide for the educational needs of gifted and talented children;

(T) supporting school improvement programs or activities under section 1116 and 1117 of Title I of the Elementary and Secondary Education Act of 1965.

“(b) section 309(a)(6)(A)(ii) [relating to authorized State and Local activities] is amended to insert after “... use of technology-enhanced curricula and instruction,”: “and activities authorized under subparagraphs (N) through (T) of section 308(b)(2),”

This language ensures that States and local educational agencies have complete flexibility to use Goals 2000 funds to carry out activities authorized under Title VI of the Elementary and Secondary Education Act.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-OCT-1998 13:41:02.00

SUBJECT: Erskine memo--draft II

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

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

TEXT:
MEMORANDUM FOR ERSKINE BOWLES

FROM: Bruce Reed

SUBJECT: Negotions on National Testing

Mr. Goodling's staff indicated to Mike Cohen that the language we offered on national tests yesterday is unacceptable to them. They further indicated that they were unwilling to permit pilot testing to occur, and that they doubted that the President would veto the omnibus bill over this issue. Goodling's staff

Our offer would have permitted NAGB to conduct pilot testing as planned, but also clarified that the type of testing Mr. Goodling indicated was of greatest concern to him--tests that would enable comparisons among school districts to be made--would not be allowable this year.

As a follow-up to this discussion, Elena spoke with Mr. Arme's staff, indicating that we still hoped to work out an agreement that gave us what we needed while still giving Mr. Goodling plenty to claim victory over. While not responding substantively, she displayed a more open posture.

In order for us to make satisfactory progress on this issue, we need you to send a clear signal to the Republican negotiators that, while we are prepared to give considerable ground to Mr. Goodling, NAGB must be able to proceed with pilot testing as planned in order for this issue to be resolved to our satisfaction.

Attached are our fallback options for further negotiations. Each of them permits pilot testing to occur as planned

Fallback 1

This is the Senate language, with additional language that prohibits any testing this year that would enable comparisons among school districts. It also includes an additional NAS study that would examine the feasibility of including test items from NAEP into state or local tests, to determine if it will be possible for a state or school district to use its own test instead of the national test.

Fallback 2

This option to be offered in addition to Fallback 1, would require a state or school district to certify to NAGB that it has a plan in place to have qualified teachers, an appropriate curriculum, and extra help for students and schools, before it can give the tests. This responds to Mr. Goodling's concerns that the test shouldn't be given until the quality

is put in□8. It is also likely to appeal to the CBC.

Fallback 3

This option is as far as we can go. It would permit pilot testing as planned, but would not permit test implementation to occur unless specifically authorized by Congress. This would be a major concession to Goodling--and would force us to have an uphill authorization fight in the next year.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-OCT-1998 15:28:28.00

SUBJECT: call bruce 6-6262

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

TEXT:

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-OCT-1998 12:51:06.00

SUBJECT: draft erskine memo

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

READ:UNKNOWN

TEXT:

I'm on a class size conference call--a response by e-mail will be easier to deal with than a phone call right now.

MEMORANDUM FOR ERSKINE BOWLES

FROM: Bruce Reed

SUBJECT: Negotions on National Testing

Mr. Goodling's staff indicated to Mike Cohen that the language we offered on national tests yesterday is unacceptable to them. They further indicated that they were unwilling to permit pilot testing to occur, and that they doubted that the President would veto the omnibus bill over this issue. Goodling's staff

Our offer would have permitted NAGB to conduct pilot testing as planned, but also clarified that the type of testing Mr. Goodling indicated was of greatest concern to him--tests that would enable comparisons among school districts to be made--would not be allowable this year.

As a follow-up to this discussion, Elena spoke with Mr. Armeys staff, indicating that we still hoped to work out an agreement that gave us what we needed while still giving Mr. Goodling plenty to claim victory over. While not responding substantively, she displayed a more open posture.

In order for us to make satisfactory progress on this issue, we need you to send a clear signal to the Republican negotiators that, while we are prepared to give considerable ground to Mr. Goodling, NAGB must be able to proceed with pilot testing as planned in order for this issue to be resolved to our satisfaction.

Attached are our fallback options for further negotiations.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-OCT-1998 15:40:56.00

SUBJECT: dingell

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

TEXT:

Dingell called me to say he was opposed to anything happening on HCFA recoupment.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-OCT-1998 19:07:35.00

SUBJECT: goals memo

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

I'll see how the bill language to back this up is coming with OMB. In the meantime, here is the draft cover memo.

MEMORANDUM FOR ERSKINE BOWLES

FROM: Bruce Reed

SUBJECT: Goals 2000 back-up language

Attached is language amending the Goals 2000 Act. It can be sold to the Republicans on the basis that it permits states and local school districts to use Goals 2000 funds for the purposes in the Title VI block grant. At the same time, we are confident that it maintains the integrity of the Goals 2000 program (because, as is the case in current law, funds could be spent only on activities consistent with the state or local education reform plan developed under Goals 2000).

If the Republicans want a victory on one of the Administration's signature programs on standards (Goals 2000 or national tests), we can try to give them this.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-OCT-1998 15:39:22.00

SUBJECT: Bilingual -- revised

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

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

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

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

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

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

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

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

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

TEXT:

This is Barry from Barbara's computer.

Attached are revised versions of the two "report" options. Revisions reflect Delia Pompa's edits for technical accuracy and sensitivities. Also attached is language for demonstrations of various techniques for LEP children. This is a further fallback option if needed.

Delia has reviewed all these and is comfortable with them, should they have to be used.===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D0]MAIL459558487.226 to ASCII,
The following is a HEX DUMP:

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•

REPORT ON BILINGUAL EDUCATION PRACTICES

Sec. ----. Subpart 2 of Part A of title VII of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof a new section 7137 to read as follows:

“Section 7137. SPECIAL REPORT. (a) The Secretary shall carry out a report on education practices for limited English proficient children. The report will (1) identify at least 10 highly successful projects, including Transitional Bilingual Education Programs, Two-Way Bilingual Education Programs, and English immersion programs, funded from any source, to help limited English proficient students in high poverty schools attain proficiency in English and high levels of academic achievement, and (2) at least 10 less successful such projects. The report shall identify the features of each project that made it successful or unsuccessful, and shall specify the characteristics of the schools and communities in which the programs were conducted, and of the children.

(b) The report in paragraph (a) shall be conducted with funds available to carry out section 7132.

(c) The report is to be carried out by a respected, non-partisan organization outside the Department of Education, such as the National Academy of Sciences.

(d) The report is to be submitted by the Secretary to the President and to the Congress not later than September 30, 1999, with such interim reports as may be necessary.

(e) The Secretary shall disseminate the findings of the report to State and local education agencies.

The Managers note that there are a number of techniques in use to help Limited English Proficient children learn English and acquire academic skills rapidly and efficiently. Grantees under the Bilingual Education Act should have information on the features of program designs that work as well as programs that have not worked, in order to design the best programs to meet the needs of their children.

The Act includes language directing the Secretary to develop a report on practices that work and those that have not worked, through a non-partisan organization, for use by grantees and to inform the Congress' deliberations on reauthorization of Title VII of the Elementary and Secondary Education Act in the next Congress..

•

REPORT ON SUCCESSFUL BILINGUAL EDUCATION PRACTICES

Sec. ----. Subpart 2 of Part A of title VII of the Elementary and Secondary Education Act of 1965 is amended by adding at the end thereof a new section 7137 to read as follows:

“Section 7137. SPECIAL REPORT. (a) The Secretary shall carry out a report on successful education practices for limited English proficient children. The report will identify at least 10 highly successful projects, including Transitional Bilingual Education Programs, Two-Way Bilingual Education Programs, and English immersion programs, funded from any source, to help limited English proficient students in high poverty schools attain proficiency in English and high levels of academic achievement. The report shall identify the features of each project that made it successful, and shall specify the characteristics of the schools and communities in which the programs were conducted, and of the children.

(b) The report in paragraph (a) shall be conducted with funds available to carry out section 7132.

(c) The report is to be carried out by a respected, non-partisan organization outside the Department of Education, such as the National Academy of Sciences.

(d) The report is to be submitted by the Secretary to the President and to the Congress not later than September 30, 1999, with such interim reports as may be necessary.

(e) The Secretary shall disseminate the findings of the report to State and local education agencies.

The Managers note that there are a number of techniques in use to help Limited English Proficient children learn English and acquire academic skills rapidly and efficiently. Grantees under the Bilingual Education Act should have information on the features of program designs that work well, in order to design the best programs to meet the needs of their children.

The Act includes language directing the Secretary to develop a report on successful practices through a non-partisan organization, for use by grantees and to inform the Congress' deliberations on reauthorization of Title VII of the Elementary and Secondary Education Act in the next Congress..

DEMONSTRATIONS OF TECHNIQUES FOR SERVING LIMITED ENGLISH PROFICIENT STUDENTS

____. Subpart 2 of Part A of Title VII of the Elementary and Secondary Education Act of 1965 is amended to add a new section at the end thereof, as follows:

“---- . DEMONSTRATIONS OF EFFECTIVE PRACTICES. (a) The Secretary is authorized to conduct up to ten demonstration projects to determine effective approaches to helping limited English proficient students in high poverty schools learn English and acquire academic skills. The demonstrations shall include examples of at least two types of programs from each of the following methods: Transitional Bilingual Education Programs, Two-Way Bilingual Education Programs, and English Immersion Programs. Each demonstration shall be accompanied by a rigorous evaluation to determine the elements of each demonstration that contributed to the results it achieved for the students in the program.

(b) The demonstrations authorized in paragraph (a) shall conclude by September 30, 2001, and the Secretary shall report to the Congress and the President on the results of the evaluations of the demonstrations by June 30, 2002. The Secretary shall provide such interim reports as may be necessary.

(c) To carry out the demonstrations and evaluations authorized by this paragraph, there are authorized to be appropriated \$10,000,000 for fiscal year 1999, to be available until expended.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-OCT-1998 12:23:56.00

SUBJECT: test fallbacks

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Attached are the test fallbacks. I've kept in the "no implementation without authorization" option in case we need that as a last resort.

I'll forward a draft memo to Erskine within the next few minutes.=====

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

TEXT:

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F987EC5A7A924064CE6F85CE6260706B604BA7A910C182C9EB79E22F311120AC3365D577B1A7B5
4982B8F3313FC85C520C89367E0C1BFC51467D2DAB121CABFBA0F974E94FA7F900A60D6FC981C1

Fallback 1

Restriction on Pilot Test With Individual Scores

Sec. ____ Notwithstanding any other provision of Federal law, no funds provided to the Department of Education or to an applicable program in this Act or in any other Act in fiscal year 1999 may be used for a pilot test that would yield individual student, school, school district, or state scores as part of the development of any federally sponsored voluntary national test in reading, mathematics, or any other subject, or to field test, implement or administer any such test; Provided, That the National Assessment Governing Board shall retain exclusive authority over the development of voluntary national tests as described in Section 307 of the Department of Education Appropriations Act, 1998.

OR

3. Restriction on Pilot Test and Field Test With Individual Scores

Sec. ____ Notwithstanding any other provision of Federal law, no funds provided to the Department of Education or to an applicable program in this Act or in any other Act in fiscal year 1999 may be used for a pilot test or field test that would yield individual student, school, school district, or state scores as part of the development of any federally sponsored voluntary national test in reading, mathematics, or any other subject, or to implement or administer any such test; Provided, That the National Assessment Governing Board shall retain exclusive authority over the development of voluntary national tests as described in Section 307 of the Department of Education Appropriations Act, 1998.

AND

5. NAS Study on Embedding NAEP Items in State and Local Tests

The National Academy of Sciences shall conduct a study of the technical feasibility of including items from the National Assessment of Educational Progress or other tests in state and district assessments to provide a measure of individual student performance against National Assessment of Educational Progress standards in 4th grade reading and 8th grade mathematics and the quality of the information about a student's performance that would be provided to parents and teachers. The National Academy of Sciences shall report the results of the study to Congress by June 1, 1999.

Fallback 2

No State or Local Implementation Without Quality Assurance

No State or local educational agency receiving financial assistance from the Secretary of Education may participate in any national test in 4th grade reading or 8th grade mathematics that is supported by the Secretary and that measures individual student performance against standards of the National Assessment of Educational Progress unless the State or local educational agency, as the case may be, certifies to the Secretary that it has developed, and has begun to carry out, a plan to--

(1) ensure that teachers have the knowledge and skills they need to teach students to meet those standards;

(2) provide all students with access to a challenging curriculum that can prepare them to meet those standards; and

(3) provide additional assistance to students and schools that do not make progress toward meeting those standards.

Fallback 3

No Implementation Without Authorization & NAGB Develops Plan for Test Implementation and Use

Sec. ___ Notwithstanding any other provisions of Federal law, funds provided to the Department of Education or to an applicable program may not be used to implement or administer any federally sponsored national test in reading, mathematics or any other subject that is not specifically and explicitly provided for in authorizing legislation enacted into law. The National Assessment Governing Board shall develop a plan for the continued development and implementation of national tests that measure individual student performance against National Assessment of Educational Progress standards in 4th grade reading and 8th grade mathematics. The plan shall include policies for the administration and use of national tests. In developing this plan, NAGB shall consider the feasibility of including items from the National Assessment of Educational Progress or other tests in state and district assessments to provide a measure of individual student performance against National Assessment of Educational Progress standards in 4th grade reading and 8th grade mathematics. NAGB shall present a written plan to the Committee on Education and Workforce of the House of Representatives, the Committee on Labor and Human Resources of the Senate, and the President for their consideration by _____ (prior to reauthorization of the National Assessment of Education Progress).

Could be used to sweeten any fallback option

Propose reducing the appropriations for test development from \$16 to \$8-10 million.

These funds have been requested in the Education Department's Fund for the Improvement of Education (FIE) account. (Keep 10 million if we do both NAS studies)

Automated Records Management System
Hex-Dump Conversion

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-OCT-1998 13:47:47.00

SUBJECT: fallback options

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

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

TEXT:
as per Bruce's changes===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D3]MAIL414218483.226 to ASCII,
The following is a HEX DUMP:

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AB3005C123B34744E1EC7F20A2CE144CA2DDE804A10EE337535F33FC4E3A1668AF8EB70ADBEB01

Fallback 1

Sec. ____ Notwithstanding any other provision of Federal law, funds provided to the Department of Education or to an applicable program may not be used to field test, implement or administer any federally sponsored national test in reading, mathematics, or any other subject, or to engage in any other testing activity that would enable comparisons of test results among school districts: Provided, That the National Assessment Governing Board shall retain exclusive authority over the development of voluntary national tests as described in Section 307 of the Department of Education Appropriations Act, 1998.

AND

5. NAS Study on Embedding NAEP Items in State and Local Tests

The National Academy of Sciences shall conduct a study of the technical feasibility of including items from the National Assessment of Educational Progress or other tests in state and district assessments to provide a measure of individual student performance against National Assessment of Educational Progress standards in 4th grade reading and 8th grade mathematics and the quality of the information about a student's performance that would be provided to parents and teachers. The National Academy of Sciences shall report the results of the study to Congress by June 1, 1999.

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Fallback 2

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- (2) provide all students with access to a challenging curriculum that can prepare them to meet those standards; and
- (3) provide additional assistance to students and schools that do not make progress toward meeting those standards.

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Fallback 3

No Implementation Without Authorization & NAGB Develops Plan for Test

Implementation and Use

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Could be used to sweeten any fallback option

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Automated Records Management System
Hex-Dump Conversion

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-OCT-1998 17:53:07.00

SUBJECT:

TO: BRUCE N. (Pager) #REED (BRUCE N. (Pager) #REED [UNKNOWN])
READ:UNKNOWN

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

TEXT:

confirm that language a total cave on records. even less than current law.
no transition required. jose