

NLWJC - KAGAN

EMAILS RECEIVED

ARMS - BOX 040 - FOLDER -006

[11/13/1998]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-NOV-1998 16:44:02.00

SUBJECT: Weekly Insert on Chicago Lawsuit -- sorry so late

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

PJW/EK:

Here's a bullet for the weekly...if it's not too late...it pretty much tracks the Chicago press release...jc3

Crime -- Chicago Gun Industry Law Suit -- As you know, this past Thursday the City of Chicago and Cook County filed suit against the gun industry, charging it with flooding Chicago with illegal guns -- knowing they will be used to commit crimes against and injure Chicagoans. This suit comes at the end of a 3-month investigation in which Chicago police officers -- posing as criminals -- bought 171 guns from suburban gun shops, whose personnel repeatedly helped them evade gun laws. Named as defendants in the suit are 12 gun shops from surrounding suburbs, 22 gun manufacturers and 4 gun distributors. The suit claims that the defendants have "created a public nuisance" because they "knowingly design, market and distribute firearms in order to facilitate their illegal entry into and possession in Chicago, where they are illegal to possess -- and where they are often used in crimes." The suit seeks \$433 million in damages for costs incurred since 1994 by the Chicago Police Department, the Chicago Fire Department's emergency medical services, the City Law Department, Cook County Hospital and the Cook County criminal justice system.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-NOV-1998 14:01:37.00

SUBJECT: good work

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

READ:UNKNOWN

TEXT:

Minneapolis-St. Paul Star Tribune

Elena Kagan, a domestic policy adviser to President Clinton, said the White House hadn't seen details of the settlement package but was cheered by what it knew. "From what we hear, this is a real step in the right direction," she said. "We give the attorneys general all the credit in the world for having accomplished this. At the same time, it leaves a great deal to be done."

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Caroline R. Fredrickson (CN=Caroline R. Fredrickson/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:13-NOV-1998 14:38:28.00

SUBJECT: Meeting

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

READ:UNKNOWN

TEXT:

Do you have any free time next week? I've got a number of meetings on Monday, but only one on Tuesday (the H2A meeting). Maybe we could meet before the Tuesday H2A meeting? Otherwise, I'm generally free as of now for the rest of the week.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-NOV-1998 12:27:53.00

SUBJECT: We need you or Gene to call Tony Coehlo

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

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

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

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

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

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

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

TEXT:

As you know, the President's Task Force on Employment of People with Disabilities has prepared a six month report and would like to have an event with the President in December. We've given the Task Force lots of edits on its report, but one outstanding issue remains. Tony Coehlo is a bit dug in on this, and needs to hear from you or Gene in order to move forward. Tony can be reached through his office at 682-7430.

The report makes about 8 recommendations to the President, and we've made sure they are all things we like and are general enough to leave us room to fill in the details. See below for some examples. The issue of dispute is whether a series of detailed recommendations from the Task Force workgroups to the Task Force be included in the appendix to the report. These workgroup reports contain dozens of unvetted recommendations not endorsed by the Task Force. We have argued strenuously that these should be removed from the report to the President (and published or distributed separately if they so choose) because including them:

1) Detracts from the key recommendations the Task Force is making to the President

2) Will expose the President, Sect. Herman, and Tony Coehlo to premature questions -- from the press and others -- about our views on these matters.

The Executive Order required these Task Force workgroups to report to the Task Force by 11/15 but did not require the Task Force to include the recommendations in its report to the President. The EO simply requires the Task Force to report to the President by 11/15 on "the actions taken by, and progress of, each member of the Task Force in carrying out this order."

Coehlo thinks that the caveats currently in the report saying these ideas are not endorsed by the Task Force are adequate, and that omitting these work group reports would be viewed as suppressing the work these groups have done. I think they should publish them separately, get public views, and then in a later report to the President endorse the ones they want to endorse.

Sorry to drag you into this.

Sample Task Force recommendations to the President (that we would keep in the report)

The President continue to work with Congress to pass the Patients' Bill of Rights.

The President directs the Department of Health and Human Services, Social Security

Administration and other appropriate Administration representatives to continue their work with Senators Jeffords, Kennedy and other Members of Congress to pass affordable, feasible legislation that helps people with disabilities maintain their health care coverage and return to work.

The President propose program to increase the employment rate of adults with disabilities by fostering interdisciplinary consortia of and service integration by providers of services to adults with disabilities at the state and local level.

The President direct the agencies and departments to implement a model plan to be developed by the Office of Personnel Management to increase the representation of adults with disabilities in the federal workforce.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sally Katzen (CN=Sally Katzen/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:13-NOV-1998 14:55:39.00

SUBJECT: Low-Income Housing/Homeownership

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

READ:UNKNOWN

TEXT:

apparently i goofed when i said it had been o.k. for you to combine the two -- let's keep in mind for the next iteration. thanks

----- Forwarded by Sally Katzen/OPD/EOP on 11/13/98 02:54 PM -----

Jonathan Orszag

11/13/98 10:13:23 AM

Record Type: Record

To: Sally Katzen/OPD/EOP

cc:

Subject: Low-Income Housing/Homeownership

The bullet in the memo to the President on new ideas combines the Low-Income Housing Tax Credit (LIHTC) and Homeownership Tax Credits targeted at low-income families. Substantively, this does not make much sense.

As the full LIHTC bullet in the last draft of the memo stated, the LIHTC helps "develop more affordable rental housing." The tax credits we are now examining would lower the barrier to homeownership for low-income families.

The way the bullet is now written is very confusing and makes it seem as though the two proposals are redundant and have the same goal. If the President believes that these policies have a similar purpose -- which they do not -- I fear that we will have a tougher sell during the budget/tax process.

If the issue were space, it would have been easy to cut from the section. Indeed, some of the initiatives are in the millions of dollars, while this homeownership initiative may be in the range of a billion dollars. Moreover, I assume tax credits for homeownership have more "lift" than initiatives, such as homeless assistance for veterans.

I don't know if this can be corrected now, but a lot of hard work has gone into making the homeownership tax credit workable. With the homeownership rate of lower income families a fraction of the homeownership rate of higher-income folks, this initiative should be a central part of the President's community empowerment budget.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-NOV-1998 14:33:10.00

SUBJECT: IGA checked w/AGs, couldn't get any more paper

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

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

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

TEXT:

They were told copies of the agreement will not be available until Monday morning.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-NOV-1998 16:21:05.00

SUBJECT: Additional welfare item/NYC

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

READ:UNKNOWN

TEXT:

----- Forwarded by Cynthia A. Rice/OPD/EOP on 11/13/98
04:16 PM -----

Cynthia A. Rice

11/13/98 12:59:01 PM

Record Type: Record

To: Paul J. Weinstein Jr./OPD/EOP

cc: Christopher C. Jennings/OPD/EOP, Jeanne Lambrew/OPD/EOP, Devorah R. Adler/OPD/EOP, Andrea Kane/OPD/EOP

Subject: Here's the additional item for the weekly

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D79]MAIL43796571Q.326 to ASCII,

The following is a HEX DUMP:

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10FDDBAE195A3BD6E0A96FC6A17A1A23DE2D5A6E1BF09C2F0236CCF1739443307BC24EF3245B03

Welfare Reform -- New York City Food Stamp and Medicaid Application

Procedures: There are growing concerns that in converting welfare offices into “job centers” New York City may be inappropriately preventing families from obtaining Food Stamps and Medicaid by requiring them to wait until their second visit to apply. While agencies do not need to offer TANF assistance to applicants when they first apply (they can, for example, require an applicant to search for a job first), Food Stamp law requires agencies to allow applicants “to apply ... on the same day that the household first contacts a food stamp office” and Medicaid regulations require agencies to provide “the opportunity to apply for Medicaid without delay.” Currently, both USDA and HCFA are requesting information from city and state officials about their application procedures. Unfortunately, Mayor Guiliani has criticized this review as an attack on his work first agenda, and has been publicly disagreeing with his welfare commissioner, Jason Turner, and The New York Times, which reported the story and which Guiliani says misquoted Turner. We are trying to get this issue out of the spotlight while using our legal leverage to ensure the federal Food Stamp and Medicaid guarantee.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Chantell S. Long (CN=Chantell S. Long/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:13-NOV-1998 15:20:51.00

SUBJECT: Call for you

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

READ:UNKNOWN

TEXT:

Elena,

A man name Sonny Goldreich from the Washington Times called for you, he left his number (202) 636-3180. He wanted to ask you some questions.

Thanks,
Chantell Long

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Paul J. Weinstein Jr. (CN=Paul J. Weinstein Jr./OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:13-NOV-1998 17:40:36.00

SUBJECT: weekly

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

READ:UNKNOWN

TEXT:

----- Forwarded by Paul J. Weinstein Jr./OPD/EOP on
11/13/98 05:40 PM -----

Leanne A. Shimabukuro
11/13/98 04:45:52 PM
Record Type: Record

To: Elena Kagan/OPD/EOP, Paul J. Weinstein Jr./OPD/EOP
cc: Jose Cerda III/OPD/EOP
Subject: weekly

One more insert:

Crime -- Survey on Gun Ownership: On Friday, the Center to Prevent Handgun Violence released a survey of 806 parents showing that 43 percent of households with children have guns, and of those households, 23 percent keep a gun loaded, and 28% keep a gun hidden and unlocked. However, nearly two-thirds of parents surveyed -- 73 percent -- believe that it is "not at all likely" that their child would find and handle a gun without permission. The survey also found that while 75 percent of parents say they have discussed with their children what to do if they find a gun in the home of a friend or neighbor, only 30 percent have asked parents of their children's friends if there is a gun in the home before allowing them to visit.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-NOV-1998 19:57:05.00

SUBJECT: weekly insert for MASS

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Here you go.===== ATTACHMENT 1 =====

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D22]MAIL436837712.326 to ASCII,
The following is a HEX DUMP:

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738EB68E0363CD23568C3C30ADADD8FD8571927927EE0AC0AE9692BCE153BF27F558E7E126066
6CE0248F40C4CB3E595A6EB7548FDB2ECFE3CD274F0B928FD2D479236EF0EF84A3B6AAEB18690F
C8AB35BFC11BFB6D08FE54751C51CD65DA5D46256819BB4262A773BBF3F99783F44B1C3EECB1A5
4A8FDC06AFFA37D8C58EC0C94BCD81833EC0F679BE773348247B9D2EB9264900864796D7AA453F
62EA7C7DF6CB2BF8A5FEB83F3FF67403F0EA6ED382F160C4BF8B1D07BA5ADE684B6C58D47F2614
A5C06032E8936F882BEB2F0D3AE0ECCBAB35F57C48C737240F286169833C25DE508CC1C6CE7524
998B9E9B8FAA9D9EB413FD70147D860C86001C3635B09096CEDC0C1F41EDB3E8547A6F67F918A2

Massachusetts HMO Drug Benefit Update. On Tuesday, HHS met with representatives of the four HMOs in Massachusetts that participate in the Medicare program to unveil a one-week opportunity to modify their benefit packages as an incentive to stay in the program. In the absence of this action, at least one HMO -- which was providing the state's most comprehensive drug benefit to thousands of Medicare beneficiaries -- had indicated it would have to withdraw from the program. The HHS offer, which was coordinated with Senator Kennedy's office, was extremely well received by both the Governors' office, the plans, beneficiaries, and the state press. This was the case because it gave the political establishment the opportunity to pressure the health plans to not only stay in the program, but to also lobby the HMOs to offer equally substantial drug benefits. So far, three of the four plans have agreed to offer comprehensive drug benefits, as long as the fourth HMO (Harvard Community Health Plan) does so as well. (The plans believe that they will not be subjected to disproportionate adverse selection if all HMOs offer the similar drug benefits.) We will know by next Tuesday if the Governor and Senator Kennedy was successful in convincing Harvard Community to be responsive. If they are not, the other plans will likely submit alternative plans that protect them against adverse selection -- no doubt with much lesser drug benefits. If this occurs, Senator Kennedy's office believes that we (and they) are well positioned to blame the plans, and not HHS, for this situation.

Automated Records Management System
Hex-Dump Conversion

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-NOV-1998 16:29:21.00

SUBJECT: TPS

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

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

TEXT:

At the end of the meeting with Maria, it was decided that at the radio address (which I suppose has already been taped), Mrs. Gore will recommend that the AG continue to stay deportation for nationals of all four Central American countries (El Salvador; Nicaragua; Guatemala; Honduras) through the holidays. On Monday, the DOJ will issue a statement effecting such a continuation, and set a date (likely January 1st or 6th) for when they will conduct their next review to determine if continued suspension is needed for each country.

During her trip to the region on Monday, HRC will reiterate the President's and Mrs. Gore's message.

Sometime within the next week or so, we will announce TPS for Honduras and Nicaragua. We will also announce our support for legislation that would give amnesty to the Salvadorans and Guatemalans in the ABC class (currently eligible for pre-1996 suspension of deportation with the modified procedure) and the small class of Hondurans who are equivalent; i.e., those who applied for amnesty prior to December 1992.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Paul J. Weinstein Jr. (CN=Paul J. Weinstein Jr./OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:13-NOV-1998 17:40:18.00

SUBJECT: Weekly Insert on Chicago Lawsuit -- sorry so late

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

READ:UNKNOWN

TEXT:

----- Forwarded by Paul J. Weinstein Jr./OPD/EOP on
11/13/98 05:40 PM -----

Jose Cerda III

11/13/98 04:41:42 PM

Record Type: Record

To: Paul J. Weinstein Jr./OPD/EOP, Elena Kagan/OPD/EOP

cc: Leanne A. Shimabukuro/OPD/EOP, Laura Emmett/WHO/EOP

Subject: Weekly Insert on Chicago Lawsuit -- sorry so late

PJW/EK:

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-NOV-1998 13:59:11.00

SUBJECT: We have only just begun to pay

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

TO: Thomas L. Freedman (CN=Thomas L. Freedman/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:

Tobacco proposal has Patton concerned

Deal not expected to include growers

By Jack Brammer and Gail Gibson
 HERALD-LEADER STAFF WRITERS

LOUISVILLE -- Gov. Paul Patton sounded a disappointed
 note yesterday
 under a pending
 national tobacco settlement.

"We have made it known that we want some kind of an extra
 consideration
 for the tobacco farmer," Patton said in an interview.
 "I'm not going to
 I'm not smiling a
 comment on whether we got our expectations or not, but
 whole lot."

Patton would not discuss details. But farm leaders and
 public-health
 advocates who are closely following the national
 negotiations don't expect the
 deal to include specific aid for growers.

Instead, the accord is likely to include a pledge that
 the companies will sit
 down with tobacco-state political leaders to talk about
 implications for leaf
 growers within 30 days of a final deal, said Scott
 Ballin, senior policy analyst
 with the Campaign for Tobacco-Free Kids in Washington,
 D.C.

That would at least be a starting point to seek some
 concessions from the
 industry on farm issues, said Danny McKinney, executive

director of the
Lexington-based Burley Tobacco Growers Cooperative
Association.

"We don't expect there to be big money in there for a
buyout," McKinney
said, referring to earlier proposals to offer farmers
cash payments for their
allotments.

The expected settlement proposal is still in the works
and under wraps. Fred
Olsen, a spokesman for Washington state Attorney General
Christine
Gregoire, one of the lead negotiators, said yesterday
that a deal is close, but
not complete.

Health advocates tracking the talks expect a deal that
would force tobacco
companies to pay roughly \$200 billion to as many as 46
states.

That would include money for the three dozen states with
suits pending
against the industry, as well as 10 states, including
Kentucky, Virginia and
North Carolina, that haven't taken Big Tobacco to court.

It's not clear how much money Kentucky would receive, but
the figure was
\$3 million in a far more sweeping settlement proposal
that fell apart last
summer in the U.S. Senate. Disagreements over provisions
to increase taxes,
allow more regulation of nicotine and curb advertising
scuttled that deal.

The new settlement would not require congressional
approval. But state
leaders will have to decide whether to sign on.

Patton didn't say yesterday whether he thought the accord
was something
Kentucky should support. Attorney General Ben Chandler
declined to discuss
the talks.

"All this is fluid right now," said Chandler spokeswoman
Jennifer Schaaf.

Patton, who was briefed on some details by Chandler's
office, said that he
hopes to discuss the deal with Kentucky's legislative
leaders next week.

"This is a major policy decision that would need to have
the advice of the
General Assembly's leadership," Patton said.

Senate President Larry Saunders, D-Louisville, said he knows nothing about the settlement and no briefing has been scheduled yet for legislative leaders.

Earlier this year, the General Assembly created a special fund to hold any money the state might receive from a national tobacco settlement or federal legislation.

The fund is just a holding spot, though.

State lawmakers would decide how to spend the money.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-NOV-1998 18:17:50.00

SUBJECT: Revised weekly on state settlement

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

READ:UNKNOWN

CC: Bruce N. Reed (CN=Bruce N. Reed/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.D23]MAIL453296718.326 to ASCII,
The following is a HEX DUMP:

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80059A6F3C5F0A7A596D880E5C246A2BC57A115347C59D5E645E2EDAA6E3B6FB3703B1303F95A4

Revised Tobacco Weekly -- 11/13/98

Tobacco -- Proposed State Settlement: On Monday, the eight Attorneys General that have been negotiating with the tobacco industry plan to announce what they will characterize as the industry's settlement proposal. States will have until Friday November 20th to decide whether or not to sign onto the deal. The settlement would provide an additional \$206 billion over 25 years to the states (in addition to the funds already committed to the four states with settled suits). The \$206 billion includes \$183 billion over 25 years in annual payments, nearly \$13 billion over the next 5 years in upfront payments, nearly \$9 billion from 2008-2017 in a "strategic contribution fund" (distributed based on state contributions to the state resolution of the lawsuits), \$1.45 billion over five years for counteradvertising and public education, and \$250 million over 10 years for a research foundation. The advertising restrictions are akin to those adopted in the Minnesota settlement, banning billboards, paid product placements, and promotional items with brand names or logos (such as hats and gym bags). While the settlement would ban cartoon characters and forbid marketing targeted at children, it would not go as far as the FDA rule in restricting images that appeal to children (the rule would limit advertising to black-and-white text for all billboards, point of sale promotions, and publications, except those with a predominantly adult readership or at adult only facilities). The proposed settlement reportedly does not require companies to pass through the settlement costs to consumers, and Wall Street analyst Gary Black predicts that companies will increase their price by \$.15 per pack rather than the full \$.35. The settlement will not have any provisions for farmers.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Paul J. Weinstein Jr. (CN=Paul J. Weinstein Jr./OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:13-NOV-1998 17:40:53.00

SUBJECT: Here's the additional item for the weekly

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

READ:UNKNOWN

TEXT:

----- Forwarded by Paul J. Weinstein Jr./OPD/EOP on
11/13/98 05:40 PM -----

Cynthia A. Rice

11/13/98 12:59:01 PM

Record Type: Record

To: Paul J. Weinstein Jr./OPD/EOP

cc: Christopher C. Jennings/OPD/EOP, Jeanne Lambrew/OPD/EOP, Devorah R. Adler/OPD/EOP, Andrea Kane/OPD/EOP

Subject: Here's the additional item for the weekly

Chris may have additional comments

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D77]MAIL480666714.326 to ASCII,
The following is a HEX DUMP:

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10FDDBAE195A3BD6E0A96FC6A17A1A23DE2D5A6E1BF09C2F0236CCF1739443307BC24EF3245B03

Welfare Reform -- New York City Food Stamp and Medicaid Application

Procedures: There are growing concerns that in converting welfare offices into “job centers” New York City may be inappropriately preventing families from obtaining Food Stamps and Medicaid by requiring them to wait until their second visit to apply. While agencies do not need to offer TANF assistance to applicants when they first apply (they can, for example, require an applicant to search for a job first), Food Stamp law requires agencies to allow applicants “to apply ... on the same day that the household first contacts a food stamp office” and Medicaid regulations require agencies to provide “the opportunity to apply for Medicaid without delay.” Currently, both USDA and HCFA are requesting information from city and state officials about their application procedures. Unfortunately, Mayor Guiliani has criticized this review as an attack on his work first agenda, and has been publicly disagreeing with his welfare commissioner, Jason Turner, and The New York Times, which reported the story and which Guiliani says misquoted Turner. We are trying to get this issue out of the spotlight while using our legal leverage to ensure the federal Food Stamp and Medicaid guarantee.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-NOV-1998 17:24:21.00

SUBJECT: Great Amer Smokeout weekly

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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5052E73A9E7C351E05FE36F5039BFF5DF0829AEF1C97354C22662D301A999B998DDF5733FD7B95
C94D91298CCF9802BE2EEE40477840D19A121F10B127DA0DF28F99E844EBC9E358BF2C6CA24FB8

Additional tobacco weekly -- 11/13

Tobacco -- Great American Smokeout: Thursday, November 19th is the American Cancer Society's 22nd annual Great American Smokeout and the Vice President is going to appear at an event with the WNBA Mystics and 500 young people to promote sports instead of smoking. We are planning to have the Vice President unveil a package of "top-10" youth-oriented anti-smoking advertisements and designate a National Clearinghouse on Tobacco Counteradvertising at the Centers for Disease Control.

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: David W. Beier (CN=David W. Beier/O=OVP [UNKNOWN])

CREATION DATE/TIME:13-NOV-1998 19:18:07.00

SUBJECT: Letter from the President to the NBAC

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Neal Lane (CN=Neal Lane/OU=OSTP/O=EOP @ EOP [OSTP])

READ:UNKNOWN

TEXT:

I received a copy of the draft letter which is proposed to be sent by the President to the NBAC. I offer one important editorial suggestion. In the second sentence reference is made to "mingling of species". This reference is likely to be more problematic than helpful. During the debate about transgenic animal research this type of rhetoric was used by biotech opponent Jeremy Rifkin. As a subsequent OTA report correctly pointed out this notion is not scientifically relevant in the context of animal breeding (or plant breeding).

As most of the NBAC witnesses who testified in the cloning hearings the "special status" of certain cellular material is what is at issue. In the published reports some of the research involved concerned cellular material that could not become a fetus that could be brought to term. Thus, it is important to correctly identify the exact nature of the experiments which are to be addressed.

I think there are better ways to get this point across (see below). It is also important to separate the types of experiments involved here. There were legitimate and published work done on stem stems by Geron. There, on the other hand, have been press reports about work about claims from Dr. West. It would be mistake to dignify the later claims with the former peer reviewed work.

Having said that, it is important to clarify which experiments are to be examined. Is the intention to look at both of the published experiments and those claimed by Dr. West. If so, that should be stated.

My suggested amendment to the letter would be to state"

"...experiments involving stems cells, and other research on material related to embryos".

I hope that this helps.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-NOV-1998 20:44:09.00

SUBJECT: stem cell research memo / letter

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

READ:UNKNOWN

TEXT:

As per your request....

cj

----- Forwarded by Christopher C. Jennings/OPD/EOP on
11/13/98 08:44 PM -----

Christopher C. Jennings

11/13/98 05:11:05 PM

Record Type: Record

To: Phillip Caplan/WHO/EOP

cc:

Subject: stem cell research memo / letter

Podesta's office said to send these down to you. These are the final drafts of the POTUS memo and outgoing letter regarding man / cow research.

Thanks, cj

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D71]MAIL47594771U.326 to ASCII,

The following is a HEX DUMP:

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01CBF0499EAA286FBCE7B5FBCE9C441569BA8483187D9F8399EEC4F18B56D5FF508BB6F608A98F5

November 13, 1998

MEMORANDUM TO THE PRESIDENT

FROM: Bruce Reed and Neal Lane

SUBJECT: Attached letter

Attached is a letter to Dr. Harold Shapiro, the Chair of your Bioethics Advisory Commission, requesting that the Commission consider the ethical issues raised by a recent experiment involving the creation of an embryonic cell that is part human and part cow. The letter also asks the Commission to review issues related to other kinds of cutting edge stem cell research that have significant medical potential.

The letter is designed to make clear your serious ethical concerns about experiments that mingle human and non-human species. At the same time, the letter is intended to distinguish this very troubling research from other stem cell research, involving purely human material, that may have significant medical benefits.

We would like to get this letter to Dr. Shapiro in time for the Commission's next meeting, which will take place in Miami on Tuesday. If you approve, we will leak the letter to the *New York Times* for this Sunday's edition.

Automated Records Management System
Hex-Dump Conversion

November 14, 1998

Dr. Harold Shapiro
Chair, National Bioethics Advisory Commission
Suite 3C01
6100 Executive Boulevard
Bethesda, Maryland 20892-7508

Dear Dr. Shapiro:

This past week's report of the creation of an embryonic stem cell that is part human and part cow raises the most serious ethical, medical, and legal concerns. I am deeply troubled by this news of experiments involving the mingling of human and non-human species. I am therefore requesting the National Bioethics Advisory Commission to consider the implications of such research at its meeting next week, and to report back to me immediately thereafter.

I recognize, however, that other kinds of stem cell research raise different ethical issues, while promising significant medical benefits. Four years ago, I issued a ban on the use of federal funds to create human embryos solely for research purposes; the ban was later broadened by Congress to prohibit any embryo research in the public sector. At that time, the benefits of human stem cell research were hypothetical, while the ethical concerns were immediate. Although the ethical issues have not diminished, it now appears that this research may have real potential for treating such devastating illnesses as cancer, heart disease, diabetes, and Parkinson's disease. With this in mind, I am also requesting the Commission to undertake a thorough review of the issues associated with such human stem cell research, balancing all ethical and medical considerations.

I look forward to receiving your reports on these important issues.

Sincerely,

Automated Records Management System
Hex-Dump Conversion

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-NOV-1998 16:48:10.00

SUBJECT: weekly

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

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

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

TEXT:

One more insert:

Crime -- Survey on Gun Ownership: On Friday, the Center to Prevent Handgun Violence released a survey of 806 parents showing that 43 percent of households with children have guns, and of those households, 23 percent keep a gun loaded, and 28% keep a gun hidden and unlocked. However, nearly two-thirds of parents surveyed -- 73 percent -- believe that it is "not at all likely" that their child would find and handle a gun without permission. The survey also found that while 75 percent of parents say they have discussed with their children what to do if they find a gun in the home of a friend or neighbor, only 30 percent have asked parents of their children's friends if there is a gun in the home before allowing them to visit.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-NOV-1998 10:54:46.00

SUBJECT: Q/A for tomorrow's event...jc3

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Sorry, this went to Laura last night and didn't make it to you...jc3
----- Forwarded by Jose Cerda III/OPD/EOP on 11/13/98
10:53 AM -----

Jose Cerda III
11/12/98 10:44:31 PM
Record Type: Record

To: Laura Emmett/WHO/EOP
cc: Leanne A. Shimabukuro/OPD/EOP
Subject: Q/A for tomorrow's event...jc3

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

TEXT:

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C1071D6570679CEC5B06465305410607D589639F3D884E86875CCF24B29D4B76B8E9BBEFAA7F07

**Bill Signing Event
Questions and Answers
November 13, 1998**

Automated Records Management System
Hex-Dump Conversion

Q: What are the two bills the President is signing today?

A: (1) S. 1525: The Police, Fire, and Emergency Officers Educational Assistance Act of 1998. On October 3, 1996, President Clinton signed into law the Federal Law Enforcement Dependents Assistance Act (FLEDA). The law provides higher education benefits for the spouses and children of Federal law enforcement officers killed or disabled in the line of duty. Today, President Clinton will sign S. 1525, which expands FLEDA to provide higher education assistance to the dependents of all public safety officers slain or incapacitated in the line of duty. The bill provides eligible applicants with nearly \$5,000 per year for up to four years for full-time students to pay for tuition, room and board, and books. Part-time students may also receive assistance.

(2) S. 191, a bill to throttle the criminal use of guns. This legislation **clarifies and strengthens the federal penalties that apply to violent criminals and drug felons who commit crimes while carrying a gun**. Following two U.S. Supreme Court decisions, **this new law makes clear that violent criminals and drug felons who simply possess a firearm during the commission of a federal crime are subject to an additional 5-year mandatory sentence**. This new law also provides that -- in addition to the penalties that apply for underlying violent or drug crimes -- **criminals receive a mandatory minimum sentence of at least 7 years for brandishing a firearm and of at least 10 years if the firearm is discharged**. The bill also increases the penalty for subsequent convictions for these offenses from 20 years to 25 years.

Scholarships for Family Members of Slain Officers

Q: Who is covered by this legislation?

A: Spouses and children of Federal, state and local public safety officers killed or permanently and totally disabled by catastrophic injuries sustained in the line of duty are covered. In addition to law enforcement officers, the new law will benefit the families of firefighters, correctional officers, and rescue and ambulance squad members. The law will cover deaths after October 1, 1997.

Q: Aren't there state programs that already cover these family members if their father or spouse is killed in the line of duty?

A: According to the Justice Department, 34 states have programs that provide some sort of

tuition assistance or scholarship programs for families of slain officers. These programs provide widely varying levels of educational assistance. The remaining states do not provide any educational assistance. The educational benefits under the bill signed by the President, under certain circumstances, can be provided in combination with other benefits.

Q: How many public safety officers were killed in the line of duty last year?

A: In 1996 -- the most recent year we have figures for -- there were 226 deaths of public safety officers reported. In 1995, which included deaths resulting from the Oklahoma City bombing, the total was 270.

Q: How many family members have received assistance under the Federal law Enforcement Dependents Assistance Act (FLEDA)? And how much will the expansion being signed into law today costs?

A: Since the President signed FLEDA into law October 3, 1996, 11 family members of slain Federal law enforcement officers have received nearly \$90,000 in educational assistance. The Department of Justice has conducted extensive outreach to many other eligible families and hopes to make the FLEDA's benefits available to as many eligible applicants as possible.

We estimate that expanding FLEDA to include state and local public safety officers will bring total program costs to about \$515,000, and we have the funds in our FY 99 budget to pay for this increase.

Strengthened firearms penalties for criminals

Q: Doesn't S. 191 simply codify the Supreme Court's recent decision in Muscarello v. United States, in which the Court held that a person who knowingly possesses and conveys a firearm -- including in a locked glove compartment or trunk -- is subject to the 5-year penalty enhancement for "carrying a firearm."

A: No, S. 191 goes further than the Muscarello case in several ways.

First and foremost, the Court's decision in the Muscarello case did not reverse its 1995 decision in Bailey v. United States. In Bailey the Court held that the additional 5-year penalty for "using a firearm" in relation to a federal drug or violent crime did not apply to criminals who merely possessed a firearms, but only to those who "actively employed" the use of a firearm. This narrowing of federal gun laws by the Court still stands today.

Second, while the Court refused to similarly narrow the definition of “carrying a firearm” in Muscarello by holding that criminals with a gun in their vehicle -- as opposed to on their person -- were in fact eligible for the 5-year penalty enhancement for “carrying a firearm,” neither did it hold that mere possession of a firearm qualified a violent criminal or drug felon for this penalty enhancement. S. 191 makes clear Congress’ intention that simply possessing a firearm in furtherance of a federal drug or violent crime should be punishable by an additional -- and mandatory minimum -- sentence of at least 5 years.

And third, S. 191 include new and increased penalties for similar crimes. It establishes an additional, mandatory sentence of 7 years for brandishing a firearm -- and of 10 years if the firearm is discharged. S. 191 also increases the penalty for subsequent convictions from a minimum 20 years to at least 25 years.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-NOV-1998 10:57:13.00

SUBJECT: Weekly

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

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

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

TEXT:

As you may have heard during the staff meeting this morning, I need to get weeklies to the POTUS tonight given his trip tomorrow. I know it will be tough, but I really should have it by 6:00ish. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jeffrey M. Smith (CN=Jeffrey M. Smith/OU=OSTP/O=EOP [OSTP])

CREATION DATE/TIME:13-NOV-1998 14:08:32.00

SUBJECT: 11/13 revised embryonic stem cell research letter

TO: Joanne S. Tornow (CN=Joanne S. Tornow/OU=OSTP/O=EOP @ EOP [OSTP])
READ:UNKNOWN

TO: Neal Lane (CN=Neal Lane/OU=OSTP/O=EOP @ EOP [OSTP])
READ:UNKNOWN

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

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

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

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

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

TEXT:

Chris/Elena/Paul -- after you left today's 1:00 p.m. meeting, this letter was fly-specked, and a few minor changes were made. The phrase "...part human and part cow..." stays in, and NIH concurs with this. All of your other changes have been incorporated.

11/13/98 DRAFT

November 13, 1998

Dr. Harold Shapiro
Chair
National Bioethics Advisory Commission
Suite 3C01
6100 Executive Boulevard
Bethesda, Maryland 20892-7508

Dear Dr. Shapiro,

In recent days, Americans have learned of major new technological advances in human embryonic stem cell research. The report of the creation of an embryonic stem cell that is part human and part cow raises the most serious moral, ethical, medical, and legal concerns. I am deeply troubled by this report, and I am directing that the National Bioethics Advisory Commission consider the implications of such research involving the

mingling of species at its meeting next week, and report back to me immediately thereafter.

Four years ago, I issued a ban on the use of federal funds to create human embryos solely for research purposes; the ban was subsequently broadened by Congress to prohibit any embryo research in the public sector. At that time, the benefits of human embryo research were hypothetical, while the ethical concerns were immediate. Although other recent reported advances in human embryonic stem cell research bring into sharper focus the potential medical benefits such research holds for dramatic breakthroughs in treating many devastating human conditions, the ethical issues have not diminished.

Therefore, I also direct that the National Bioethics Advisory Commission undertake a thorough review of all of the issues associated with human embryonic stem cell research, balancing the potential benefit to the public good with the need to respect individual beliefs.

I look forward to receiving your report on this important issue.

Sincerely,

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-NOV-1998 09:30:48.00

SUBJECT: Title IX

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

I think it would be a good idea to have a meeting here with DOJ and ED to update where we stand on various Title IX issues. We are still awaiting the government-wide regulations; ED is considering new regs on single sex classrooms; there is the thorny issue of single sex institution enforcement policy, and there may be other related issues, too. I would be happy to convene it, or DPC can. Any thoughts?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Paul J. Weinstein Jr. (CN=Paul J. Weinstein Jr./OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:13-NOV-1998 12:12:59.00

SUBJECT: Re: Weekly

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

READ:UNKNOWN

TEXT:
Right Now.

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

TEXT:
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November 13, 1998

MEMORANDUM FOR THE PRESIDENT

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FROM: Bruce Reed
Elena Kagan

RE: DPC Weekly Report

Education -- Senate Democrats Education Agenda: DPC staff met with staff from Sens. Daschle, Kennedy and Dodd's offices to discuss a Democratic leadership package for the next Congress. The issues they identified as highest priority and most likely to unite the caucus include our Class Size Reduction and School Modernization initiatives, as well as possible initiatives on technology teacher training and safe schools. However, they thought it would be more difficult to unite the caucus behind new proposals addressing either teacher quality or public school choice. We will continue to work closely with Sen. Daschle's office as these discussions proceed.

Education -- National Board for Professional Teaching Standards: The National Board announced on Thursday that 924 teachers from 37 states earned National Board certification during 1997-1998. This brings the total number of board-certified teachers to 1,836 in 45 states and D.C. Most of these teachers are concentrated in North Carolina (536) Ohio (337) and California (129), though the newly certified teachers also include the first from Arkansas -- Susan Lockhart, from Rena Elementary School in Van Buren. Mike Cohen will be meeting with NBPTS President Jim Kelly next week to map out plans for putting the board on stronger, bipartisan political footing in the next Congress.

Welfare Reform -- Vice Presidential Welfare-to-Work Event: On Friday, November 20th the Vice President will announce the second round of Welfare-to-Work competitive grants at a town hall meeting with civic and faith-based organizations, employers, and individuals who have moved from welfare to work. You announced the first round of competitive grants at a Welfare to Work event in late May. While the Department of Labor is still finalizing the grant awards, we expect to award approximately 75 new grants totaling over \$250 million. The Vice President will be joined by Secretary Herman and we expect several other Cabinet Secretaries to amplify this message at similar events around the country.

Welfare Reform -- Caseload Dynamics: A new study presented at the Southern Economic Association meeting last week sheds some important new light on the employment rates of families leaving the welfare rolls. The report tracked welfare recipients in Atlanta, Baltimore, Houston, and Kansas City by matching welfare case data with employment data submitted by employers through the Unemployment Insurance reporting system. All four cities have experienced substantial caseload declines over the last few years, as well as substantial

increases in the rates of long-term recipients leaving the welfare rolls (although because short term recipients are leaving the rolls at even greater rates, the proportion of the caseload that is long-term recipients is still growing). Most significantly, the study found that the proportion of those leaving welfare and going to work has increased in all four cities. Specifically, between early 1993 and late 1997, the proportion of people who were working in the quarter after they left the rolls increased from 55% to 67% in Kansas City, 47% to 57% in Atlanta, 45% to 56% in Baltimore, and 43% to 47% in Houston.

Health -- Labor Department Amicus Brief to Supreme Court Regarding Health Insurance Remedies: Within the next two weeks, the Department of Labor will be filing an amicus brief to the Supreme Court that argues that the Employee Retirement Income Security Act (ERISA) does not preempt State insurance laws providing remedies to consumers who wish to sue insurers who have taken actions that have caused them harm. This brief would effectively overturn a previous Reagan Administration Labor Department provision that argued that ERISA did preempt State insurance law in this area. We believe the filing of this brief is advisable and appropriate for two reasons. First, we believe it is consistent with the underlying statute, which has a "savings clause" that explicitly states that State insurance law is not preempted. Second, we believe it will strengthen our hand on the Hill in the debate surrounding enforcement provisions of the Patients Bill of Rights. If the Supreme Court upholds our position, it will still validate the need for Federal legislation for self insured plans not regulated by the State. If the Supreme Court rejects our argument, it will highlight the fact that no American has any remedy to resort to when insurance practice has harmed an enrollee. Although under normal circumstances, the business community would strongly oppose this position, it is unclear what public position they would take in response to this filing. They may conclude that it only highlights the fact that individuals have no real remedies under current law and opt to lay low. In between now and the date of the filing, we will need to determine whether it is advisable to significantly publicize this amicus brief or not.

Health -- Racial Disparities in Heart Disease: This week, the Morbidity and Mortality Weekly Report at the Centers for Disease Control (CDC) included new information on racial disparities in heart disease. The report finds that from 1981 to 1995, death rates for heart disease fell for women and men of all age groups. However, the ratio of blacks to whites who died from heart disease increased by nearly 20 percent during this time frame and is higher than 2.5 times for certain age groups. The racial disparity increased across all age groups, particularly for men and women between the ages of 45 to 54. Moreover, the disparity increased during each of the three five year time periods examined. This study underscores the need for your racial health disparities initiative, which seeks to eliminate disparities in six critical health areas, including heart disease, by the year 2010.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Todd A. Summers (CN=Todd A. Summers/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:13-NOV-1998 15:46:52.00

SUBJECT: Upcoming Meeting of the President's Advisory Council on HIV/AIDS

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

CC: Sandra Thurman (CN=Sandra Thurman/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

Beginning next Monday, the President's Advisory Council on HIV/AIDS will be having its regular meeting in Washington. They are addressing a broad range of issues, and have requested the participation of a number of government officials.

We are not anticipating that their deliberations will provoke any significant press response; however, the meetings are open to the public so there is always an element of unpredictability. Of course, we will let you know immediately if any press activity is expected.

Part of their discussions will focus on their upcoming meeting with the POTUS, scheduled for December 18th. We have asked that they work carefully to identify those issues to which they expect the President to respond, as well as the Council members presenting those issues.

Here is a quick summary of government officials (in no particular order) and the issues to be discussed:

GOVERNMENT OFFICIAL ISSUES COVERED

Sandra Thurman, Director

Office of National AIDS Policy Overview of Administration's HIV/AIDS

Presidential Advisory Council on HIV/AIDS Eleventh Meeting

November 16–19, 1998

The Madison Hotel
Washington, DC

Automated Records Management System
Hex-Dump Conversion

DRAFT AGENDA

Monday, November 16

- 9:00 a.m. Welcome *Mount Vernon A & B*
R. Scott Hitt, M.D., Chair
Update of Interim Activities
Overview of Strategic Plan/Workplans
- 10:30 a.m. Office of National AIDS Policy Update
Sandra Thurman, Director
- 12:00 noon LUNCH (on your own)
- 2:00 p.m. Subcommittee Meetings:
- Appropriations Subcommittee** *Drawing Room #1*
Subcommittee Discussion of FY 1999 and FY 2000 Budget
- International Issues Subcommittee** *Drawing Room #2*
Update on the "U.S. International Response to HIV/AIDS"
by the U.S. Department of State
Invited: Nancy Carter-Foster and David Wagner, U.S.
Department of State
- Racial Ethnic Populations Subcommittee** *Mount Vernon C*
National Minority HIV Plan
Invited: Matthew Murguia, OMH (2:00 p.m.)
- Subcommittee Preparation for Presentation by
Dr. David Satcher (3:00 p.m.)
- CDC's People of Color Initiatives
Invited: Dr. Helene Gayle, CDC
(Note: Prevention Subcommittee meeting on Tuesday,
November 17, at 3:15 p.m.)

Monday, November 16 (continued)

- 4:00 p.m. **Prevention Subcommittee** *Drawing Room #1*
Update on Needle Exchange Issues
Invited: Marsha Martin, Ph.D., HHS (4:00 p.m.)
- Subcommittee Preparation for Full Council Presentation by
Dr. Jeff Koplan, CDC, and Discussion with
Dr. Helene Gayle, CDC (5:00 p.m.)

Services Subcommittee

Drawing Room #3

“Housing as an Access to Health Care Issue” Presentation

Invited: Angela A. Aidala, Ph.D., and Joyce Moon Howard,
Dr.Ph., M.H., Columbia University School of
Public Health; and Robert Sember, M.A.,
Columbia University School of Public Health
(4:00 p.m.)

“Massachusetts’ State Medicaid Waiver Planning Process”
Presentation

Invited: Robert Greenwald, Boston AIDS Action
Committee (5:00 p.m.); Annette Hanson, M.D.,
MA Division of Medical Assistance; and
Jeanne McGuire, MA State AIDS Director

6:00 p.m. **ADJOURN**

Tuesday, November 17

9:00 a.m. Full Council Presentation “Disparities in HIV/AIDS Health
Programs for American Indians, Alaskan Natives and Native
Hawaiians”
Invited: Paul Bouey, Ph.D., National Native American
AIDS Prevention Center, and Daniel C.
Simpson, Indian Health Service

Mount Vernon A & B

10:15 a.m. **BREAK**

10:30 a.m. Full Council Presentation “Update on the HIV/AIDS Racial and
Ethnic Disparities in Health”
Invited: Dr. David Satcher

12:00 noon **LUNCH** (on your own)

2:00 p.m. Full Council Presentation “Focus for the Centers for Disease
Control and Prevention”
Invited: Jeffrey Koplan, M.D., M.P.H., CDC

3:00 p.m. **BREAK**

Tuesday, November 17 (continued)

3:15 p.m. Subcommittee Meetings:

Prevention Subcommittee

Discussion on HIV/AIDS Prevention Issues
Invited: Helene Gayle, M.D., CDC

Mount Vernon C

Services Subcommittee

Update and Discussion on Ryan White CARE Act
Reauthorization

Invited: Terje Anderson, Chair, HRSA AIDS Advisory
Committee; David Harvey and Miguelina
Maldonado, Co-Chairs, National Organizations
Responding to AIDS; John Palenicek, HRSA;

Drawing Room #1

and Daphne Long Rankin, National Association
of AIDS Education Training Centers

Update on HRSA/Title IV Programs and Focus on Youth
Invited: Wayne Saucedo, HRSA

	Research Subcommittee	<i>Drawing Room #3</i>
5:00 p.m.	Appropriations Subcommittee	<i>Drawing Room #1</i>
	International Issues Subcommittee	<i>Drawing Room #3</i>
	Racial Ethnic Populations Subcommittee HIV/AIDS Data Policy Invited: Dr. Olivia Carter-Pokras, OMH	<i>Mount Vernon C</i>
6:00 p.m.	ADJOURN	

Wednesday, November 18

9:00 a.m.	Subcommittee Meetings:	
	Appropriations Subcommittee	<i>Drawing Room #2</i>
	International Issues Subcommittee	<i>Drawing Room #1</i>
	Racial Ethnic Populations Subcommittee Update on Healthy People 2000/2010 Invited: Deborah Maiese, HHS	<i>Mount Vernon C</i>
	Prisons Subcommittee Overview/Briefing of Prison Site Visit Agenda and National Prisons Meeting Invited: Todd Summers, ONAP	<i>Drawing Room #3</i>
10:30 a.m.	Prevention Subcommittee Review and Update Subcommittee Workplan	<i>Mount Vernon C</i>

Wednesday, November 18 (continued)

	Services Subcommittee "Future Leadership on Access to Care and Treatment Issues" Presentation Invited: David Beier, Chief Domestic Policy Advisor to the Vice President, Vice President's Office; Kathy King, Health Care Financing Administration; Marsha Martin, Ph.D., HHS; Steve Schondelmeyer, Ph.D., University of Minnesota; and Todd Summers, Deputy Director, Office of National AIDS Policy, Member of the White House Access to Care and Treatment Group Task Force	<i>Drawing Room #1</i>
	Research Subcommittee Update and Discussion on Microbicide Development Recommendations	<i>Drawing Room #3</i>
12:00 noon	LUNCH (on your own)	

2:00 p.m. **Prevention Subcommittee** *Mount Vernon C*
Services Subcommittee *Drawing Room #1*
Subcommittee Discussion of HIV Cost Services and
Utilization Study (HCSUS)

Subcommittee Discussion of Transition to Co-Chair Model
for Subcommittee and Division of Responsibilities

Review and Update Subcommittee Workplan

Research Subcommittee *Drawing Room #3*
Update and Discussion on Microbicide Development
Recommendations
Invited: Penelope J. Hitchcock, D.V.M., Chief of Sexually
Transmitted Diseases Branch, NIAID, NIH; and
Zeda Rosenberg, Ph.D., Senior Health
Specialist, Division of AIDS, NIAID, NIH

Review and Update Subcommittee Workplan

4:00 p.m. **Appropriations Subcommittee** *Drawing Room #1*

International Issues Subcommittee *Drawing Room #3*
Subcommittee Discussion Regarding Full Council
Presentations

Review and Update Subcommittee Workplan

Wednesday, November 18 (continued)

Racial Ethnic Populations Subcommittee *Mount Vernon C*
Subcommittee Discussion Regarding Full Council
Presentations

Review and Update Subcommittee Workplan

6:00 p.m. **ADJOURN**

Thursday, November 19

9:00 a.m. Subcommittee Reports *Mount Vernon A & B*

12:00 noon **ADJOURN**

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-NOV-1998 16:17:52.00

SUBJECT: Our weekly reports--tobacco and welfare

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

READ:UNKNOWN

TEXT:

----- Forwarded by Cynthia A. Rice/OPD/EOP on 11/13/98
04:15 PM -----

Cynthia A. Rice
11/12/98 07:23:57 PM
Record Type: Record

To: Paul J. Weinstein Jr./OPD/EOP
cc: Laura Emmett/WHO/EOP, Andrea Kane/OPD/EOP
Subject: Our weekly reports

welfare
tobacco

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D41]MAIL49536571P.326 to ASCII,
The following is a HEX DUMP:

FF5750437E040000010A02010000000205000000BD0E000000020000BD70FE3BA2B67B6EB07736
478BF60FCE1D4981C8E15887121A811AF44BDC6E8F5E4FE40B70E16327FEF9ED0A6D1CA6282746
0D60A46E0D7809E036765A05E6D38261644A27550F65CEA954C5883DFFBAD8112CFEF9A150AC78
4D94B79172251687D17EA360921B6D68567BF37ADA2936E4948170079B53EC67AA526D91937D4E

Weekly Report 11/12/98

Welfare Reform -- Vice Presidential Welfare-to-Work Event: On Friday, November 20th the Vice President will announce the second round of Welfare-to-Work competitive grants at a town hall meeting with civic and faith-based organizations, employers, and individuals who have moved from welfare to work. You announced the first round of competitive grants at a Welfare to Work event in late May. While the Department of Labor is still finalizing the grant awards, we expect to award approximately 75 new grants totaling over \$250 million. The Vice President will be joined by Secretary Herman and we expect several other Cabinet Secretaries to amplify this message at similar events around the country.

Welfare Reform -- Caseload Dynamics: A new study presented at the Southern Economic Association meeting last week sheds some important new light on the employment rates of families leaving the welfare rolls. The report tracked welfare recipients in Atlanta, Baltimore, Houston, and Kansas City by matching welfare case data with employment data submitted by employers through the Unemployment Insurance reporting system. All four cities have experienced substantial caseload declines over the last few years, as well as substantial increases in the rates of long-term recipients leaving the welfare rolls (although because short term recipients are leaving the rolls at even greater rates, the proportion of the caseload that is long-term recipients is still growing). Most significantly, the study found that the proportion of those leaving welfare and going to work has increased in all four cities. Specifically, between early 1993 and late 1997, the proportion of people who were working in the quarter after they left the rolls increased from 55% to 67% in Kansas City, 47% to 57% in Atlanta, 45% to 56% in Baltimore, and 43% to 47% in Houston.

Tobacco Weekly -- 11/12/98

Tobacco -- Proposed State Settlement: As you know, the eight state Attorneys General that have been negotiating with the tobacco industry have reached a tentative settlement which is now being shopped to the other states. As we understand it -- and we haven't seen any paper yet -- the settlement provides states with about \$220-\$230 billion over 25 years (more than the \$196 billion they would have gotten under the June 20th settlement). The settlement will create a fund, about \$300 million a year, for counteradvertising and public education campaigns. The advertising restrictions are akin to those adopted in the Minnesota settlement, banning billboards, paid product placements, and promotional items with brand names or logos (such as hats and gym bags). While the settlement would forbid marketing targeted at children, it would not go as far as the FDA rule in restricting images that appeal to children (the rule limits advertising to black-and-white text for all billboards, point of sale promotions, and publications, except those with a predominant adult readership or at adult only facilities) and the settlement would allow some sports sponsorships and retail store ads. The proposed settlement does not require companies to pass through the settlement costs to consumers, and Wall Street analyst Gary Black predicts that companies will increase their price by \$.15 per pack rather than the full \$.35. The settlement will not have any provisions for farmers. States have until November 20th to decide whether to sign onto the deal.

[Note: this is based on BR's notes of his conversation with AG Gregoire and reports from the press and Wall Street analysts and will likely need to be updated Friday for new information.]

Automated Records Management System
Hex-Dump Conversion

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-NOV-1998 16:21:07.00

SUBJECT: H2A and CNN

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

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

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

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

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

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

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

TEXT:

FYI -- John Fraser tells me that CNN is doing a program on H-2A that is scheduled to air either December 6th and 7th or December 13th and 14th. According to John, the angle is that growers are abusing the program and that they are intentionally avoiding hiring U.S. workers. CNN told John that they had interviewed 50-100 farmworkers (domestic and H-2A); DOL (including John F. and John Beverly) and the North Carolina Growers Association.

julie

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-NOV-1998 13:56:42.00

SUBJECT: draft state settlement

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

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

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

TEXT:

Josh -- note the payout explanation halfway through: \$300 million a year from 1999-03 for public education fund (counteradvertising), \$2.4 billion a year from 1999-2003 for upfront payment, \$4.5 billion on 4/1/99, \$4.5b in 2000, \$5b in 2001, \$6.5b in 2002-03, \$8.1-9b after that. Legal fees are on top of that.

This is from the Arizona Daily Star, off the Internet:

Draft agreement

Public Health Initiatives

Prohibits Youth Targeting

Prohibits targeting youth in advertising, promotions or marketing.

Bans industry actions aimed at initiating, maintaining or increasing youth smoking.

Bans Cartoon Characters

Bans use of cartoons in the advertising, promotion, packaging or labeling of tobacco products.

Restricts Sponsorships By Brand Names

Restricts sponsorships by tobacco brand names.

Prohibits brand name sponsorship of events with a significant youth

audience or team sports (football, basketball, baseball, hockey or soccer).

Prohibits sponsorship of events where the paid participants or contestants are underage.

Limits tobacco companies to one brand name sponsorship per year

(after current contracts expire or after three years - whichever comes first).

Allows corporate sponsorship of athletic, musical,

cultural, artistic
 or social events as long as the corporate name does not include the
 brand name of a domestic tobacco product.
 Bans tobacco brand names for stadiums and arenas.
 Limits duration and area of advertising for sponsored events.

Bans Outdoor Advertising
 Bans all outdoor advertising, including: billboards, signs and placards
 larger than a poster in arenas, stadiums, shopping malls, and video
 game arcades.
 Bans transit advertising of tobacco products.
 Tobacco billboards and transit ads must be removed within 150
 days after the Master Settlement Agreement Execution Date.
 Allows states to substitute, at industry expense and for the duration
 of billboard lease periods, alternative advertising which discourages
 youth smoking.
 Bans tobacco companies from entering into agreements which would prohibit advertising discouraging tobacco use.
 Requires tobacco companies to designate a contact person for sign
 removal in each state.

Bans Placement of Tobacco Products
 Bans payments to promote tobacco products in movies, television
 shows, theater productions or live performances, videos and video
 games.

Bans Sale of Merchandise With Tobacco Brand Names
 Beginning July 1, 1999, bans distribution and sale of non-tobacco
 merchandise with brand-name logos (caps, T-shirts, backpacks, etc.).

Bans Youth Access To Free Samples
 After Master Settlement Agreement Execution Date, free samples
 cannot be distributed except in a facility or enclosed area where the
 operator ensures no underage person is present.

Bans Proof of Purchase Gifts
 No gifts can be offered to youth in exchange for the purchase of
 tobacco products, coupons or proofs of purchase.
 Bans distribution of gifts through the mail without proof of age
 (legible driver's license certified to be valid by the gift recipient).
 Provisions effective after Master Settlement Agreement Execution
 Date.

Prohibits Third Parties From Using Tobacco Brand Names
Tobacco companies are prohibited from authorizing third parties to use or advertise brand names.
Tobacco companies must designate a contact in each state who will respond to Attorney General complaints of prohibited third party activity.
Exempts licensing agreements or contract in existence as of July 1, 1998, although contracts cannot be extended beyond current times.

Bans Non-Tobacco Brand Names
Bans future cigarette brands from being named after recognized non-tobacco brand or trade names (such as Harley Davidson, Yves Saint Laurent, Cartier) or nationally recognized sports teams, entertainment groups or individual celebrities.

Sets Minimum Pack Size At 20 Cigarettes
Limits minimum pack size to 20 cigarettes through March 31, 2001.
Tobacco companies prohibited from opposing state legislation which bans the manufacture and sale of packs containing fewer than 20 cigarettes.

Changes The Corporate Culture
Requires Corporate Commitments To Reduce Youth Access and Consumption
Beginning 180 days after the Master Settlement Agreement Execution Date, companies must:
Develop and regularly communicate corporate principles which commit to complying with the Master Settlement Agreement and reducing youth smoking.
Designate executive level manager to identify ways to reduce youth access and consumption of tobacco.
Encourage employees to identify additional methods to reduce youth access and youth consumption.

Disbands Tobacco Trade Associations
Disbands the Council for Tobacco Research, the Tobacco Institute, and the Council for Indoor Air Research.
Requires all records of these organizations that relate to any lawsuit to be preserved.

Provides Regulation and Oversight of New Trade Organizations
Requires any new trade association to adopt bylaws that provide:
Officers of the association will be appointed by the board,

be
member
to
Agreement,
all
association
prohibited
rules
off
writing they have
including
activities and
lobbying,
General.
federal or
companies.
settlement
legislation which
settlement.
enforceability
and rules
against

employees of the association and will not be employed by a tobacco company.
Legal counsel will be independent and not serve as counsel to member companies;
Minutes of board of director meetings will be prepared and maintained for at least five years.
For the purpose of enforcing the Master Settlement antitrust staff for any settling state may inspect and copy non-privileged, non-work-product records and interview directors, officer and employees.

Restricts Industry Lobbying
Stops Industry Assault On Tobacco Control Laws
After state specific finality, tobacco companies will be from opposing proposed state or local laws or administrative which are intended to limit youth access to and consumption tobacco products.
The industry must require its lobbyists to certify in reviewed and will fully comply with settlement terms disclosure of financial contributions regarding lobbying new corporate culture principles.
In states without laws regarding financial disclosure of requires disclosure of lobbying costs to the state Attorney General.
Prohibits lobbyists from supporting or opposing state, local laws or actions without authorization of the Prohibits the industry from lobbying for the diversion of money to non-tobacco or non-health related uses or would eliminate or diminish state rights under the

Protects State And Local Youth Access Laws
Prohibits new challenges by the industry against the of constitutionality of tobacco control laws, ordinances, passed prior to June 1, 1998.

Dismisses Lawsuits Against State Laws
Requires the industry to dismiss, without fees, all claims participating states.

related to Requires the industry to dismiss pending legal challenges
underage smoking and environmental tobacco smoke laws.

liability No Criminal Liability
Specifies that states expressly do not waive any criminal
based on federal stats or, local law.

Opens Industry Records and Research

Opens Public Access To Tobacco Documents
Effective on the Master Settlement Agreement Execution Date,
tobacco companies will release documents which are under
protective orders in state lawsuits and have no privilege of
trade-secret claim.

any Settling states may seek court-approved public release of
documents which have been subject to an order or filing,
prior to August 17, 1998, denying privilege, work product or trade
secret protection. The industry can content the action.

Website Creates Website For Industry Documents
Requires tobacco companies to open, at their expense, a
smoking which includes all documents produces in state and other
and health related lawsuits.

a Requires the industry to maintain the site for ten years in
other user-friendly and searchable format (requires and index and
features to improve searchable access).

produced Requires the industry to add, at its expense, all documents
in future civil actions involving smoking and health cases.

Website, Oversized or multi-media records will not be placed on the
Minnesota but they will be made available to the public through the
depository.

Attorneys The industry will provide the National Association of
review and General with up to \$100,000 for a computer consultant to
officials, make recommendations regarding the industry's Website plans.
NAAG's consultant can seek input from settling sate
public health officials and other users of the Website.

conspiring to: Stops Conspiracy To Hide Research Regarding Smoking and
Health
Prohibits manufacturers from jointly contracting or
their Limit information about the health hazards from the use of
products:
Limit or suppress research into smoking and health; and

Limit or suppress research into the marketing or development of new products.

Prohibits the industry from making any material misrepresentations regarding the health consequences of smoking.

Creates A Foundation And \$1.45 Billion Public Education Fund

Creates A National Foundation to Reduce Teen Smoking and Substance Abuse

Requires the industry each year for ten years to pay \$25 million to fund a charitable foundation which will support the study of programs to reduce teen smoking and substance abuse and the prevention of diseases associated with tobacco use.

The NAAG Executive Committees will provide for creation of the foundation.

The foundation will governed by a seven-member board of a board directors. NAAG, the National Governors Association and the National Conference of State Legislatures each will appoint member and the three will select the final four members with expertise in public health, medicine and child psychology.

The foundation will:

Carry out a nation wide, sustained advertising and education about program to counter youth tobacco use and educate consumers use. the cause and prevention of diseases associated with tobacco use.

Develop, disseminate and test the effectiveness of counter classroom advertising campaigns.

Develop disseminate and test the effectiveness of model population. educational programs, including programs targeting at-risk

Develop, disseminate and test the effectiveness of criteria for effective cessation programs.

Commission studies, fund research and publish reports on factors that influence youth smoking and substance abuse.

Develop targeted training and information programs for parents.

Maintain a library of foundation studies, reports and publications.

Track and monitor youth smoking and substance abuse with a focus on reasons for increases or failures to decrease tobacco and substance use rates.

The foundation is prohibited from engaging in political or lobbying activities.

Includes a severance clause for settling states which are prohibited

by state law from entering into the foundation portion of the agreement.

Creates A National Public education Fund

Requires the industry to pay \$1.45 billion over the next five years

for a National Public Education Fund.

The agreement includes incentive to the states for continued funding (from non-participating manufacturers).

advertising

The fund is established to carry out a nation sustained

educate

and education program to counter youth tobacco use and

consumers about tobacco-related diseases.

subdivisions to

The fund may make grants to states and political

carry out the fund's purposes.

Grants from the fund will be made by the foundation.

be held

Industry payments to the foundation and education fund will

required number

in an escrow account until state-specific finality in a

of states.

Outside contributions can be made to the foundation and specifically to the education fund.

Enforcement

Provides Court Jurisdiction For Implementation and Enforcement

to

Settling states or tobacco companies may apply to the court

before

enforce or interpret the terms of the agreement, although

and NAAG

applying to the court a party must give the other parties

is a

30-days notice (unless the Attorney General determines there

public health of safety concern requiring faster action).

agreement

If the court issues an enforcement order enforcing the

civil

and party violates that order, the court may order monetary,

contempt or criminal sanctions to enforce compliance with the enforcement order.

in

Key public health provisions of the agreement are included

consent decrees to be filed in each state.

to

Settling states or tobacco companies may apply to the court

enforce the terms of the consent decree.

of

A settling state may not seek to enforce the consent decree

another settling state.

sending an

A state is not required to give any prior notice before

a

order to enforce a consent decree from the court-except that

targeting

10-day notice is required if the claimed violation involves

youth or making material misrepresentations about tobacco products health or committed the court the law records

(unless the Attorney General determines there is a public safety concern requiring faster action, or the party has substantially similar violation previously).
If the court finds the consent decree has been violated, may award any relief available under the consent decree or in the state.
Allows settling state AGs access to company documents, and personnel to enforce the agreement.

NAAG Provides Implementation And Enforcement Coordination
NAAG will:
Receive \$150,000 per year until 2007 from the industry for oversight costs.
Monitor potential conflicting court interpretations involving the settlement.
Convene two meetings each year and one national conference every three years to evaluate the success of the settlement and coordinate AG efforts.
Assist states with inspection and discovery activities which are conducted to enforce the settlement.

State Enforcement Fund Established
On March 31, 1999, the industry is directed to pay \$50 million which will be used to assist settling states in enforcing and implementing the agreement and to investigate and litigate potential violations of state tobacco laws.

Financial Recovery
States Will Recover \$---Billion
Total "up-front" and annual payments from tobacco companies to the states over the next 25 years will total \$---billion.
Distributions to states will be made based on formulas agreed to by Attorneys General.

Up-front Payments Total \$12 Billion
Tobacco companies will pay \$2.4 billion per year, starting in October, 1998, and one January 5 in 2000, 2001, 2002 and 2003.

Annual Payments Begin April 15, 1999
If all states participate in the settlement, annual payments will "ramp-up" beginning with a \$4.5 billion payment on April 15, 1999.

Ensuing April 15 payments will be at the following rates:

2000: \$4.5 billion

2001: \$5 billion

2002-2003: \$6.5 billion

2004-2017: \$8.139 billion (plus \$861 million to the

strategic fund)

2018 on: \$9 billion

Payment calculations for the industry will be made by an independent auditor paid for by the industry and by a fund

established

in the agreement.

The independent auditor will be selected by the NAAG

executive

committee and the companies.

Both up-front and annual payments will be allocated to the

states

based on a formula developed by Attorneys General.

Strategic Contribution Fund

On April 15, 2008 and on April 15 each year through 2017,

the

companies will pay \$861 million into a strategic

contribution fund.

Money from the fund will be allocated to states based on a

strategic

contribution formula developed by Attorneys General. The

allocation

formula will reflect the contribution made by states toward

resolution

of the state lawsuits against tobacco companies.

Payments Subject to Inflation Factor

Payments made by tobacco companies (annual payments,

strategic

contribution fund, up-front payments) will be adjusted

annually based

on an inflation factor.

Annual Payments Subject to Adjustments

The amount of the annual payments will be subject to "volume adjustments." Tobacco company payments will rise if

cigarette sales

increase and fall if fewer cigarettes are sold.

Annual payments also are subject on Non Settling States adjustment. If states fail to participate in the settlement,

the annual

payments made by tobacco companies will be reduced by the settlement share amounts which have been allocated to those

non

settling states.

Non-Participating Manufacturers Adjustment

Settlement negotiations originated with the four major

tobacco

companies, but an early goal was to ensure public health and

other

initiatives achieved in the agreement are extended

industry-wide. To

achieve that goal, attempts were made to involve additional companies in the negotiations and to develop provisions

which would encourage all tobacco companies to follow terms of the settlement.

signed on --- companies, which represent ---% of the market, have to the settlement.

reserve fund States may pass model laws that effectively create a for non participating manufacturers to pay future claims.

the If the aggregate market share of companies participating in agreement decline by greater than two percent, their annual payment is reduced by three percent for each percent lost over the two percent threshold. States which have not passed a model law would have their annual payments reduced.

would get States which pass the model law would not have their annual payments reduced.

If a state's model law is struck down by the court, a state the annual payment reduced, but in a lesser amount.

Federal Legislation Adjustment

companies to If federal legislation requires participating tobacco that make payments to the federal government, and some portion of offset, money is sent to the settling states, those payments may be enumerated dollar for dollar, from the annual payments, under certain circumstances.

Cost Recovery and Attorney Fees

States Recover Cost, Expenses and Market Rate For Attorney Fees

reasonable Tobacco companies will reimburse offices of state Attorneys General offices and other political subdivisions for all costs and expenses and in-house attorney fees.

paid will be Establishes a \$150 million aggregate cap for all amounts company. subject to reasonable verification by any requesting

Industry Will Pay Outside Attorney Fees

agreement and No state dollars will be used to pay outside counsel. Two payment methods are available - liquidated fee arbitration.

with the Outside counsel can negotiate a liquidated fee agreement industry, and if accepted, would be paid from a \$1.25 billion pool of money from the tobacco industry.

cannot agree If outside counsel rejects the liquidated fee process or

to an offer, they can go through arbitration.

two
the
permanent members and a member from the state represented by
outside counsel.

of the
cap.
The industry will pay whatever arbiters award, but timing
payment will be subject to a \$500-million-per-year cash flow

Miscellaneous Provisions

Release Provisions

release
and that
wins a
settlement), the
settlement
share.
If an Attorney General does not have the authority to
claims for political subdivisions or certain other entities
political subdivision or entity proceeds with a lawsuit and
judgment or settlement (and the AG agrees to the
amount of the recovery will be taken out of the state's

Court Approval of Settlements and Consent Decrees Required

approved and
days to
decree.
Within 30 days of the Master Settlement Agreement execution
date, states must go to court to have the settlement
their consent decrees entered and approved.
Non-filing states which want a consent decree will have 30
file suite and enter the settlement agreement and consent

Most Favored Nation Provisions

will get the
agreement
trial.)
favorable
ling states
at their option may benefit.
If tobacco companies, before October 1, 2000, enter into an
agreement with better financial terms, settlement states
benefit of the agreement. (This does not apply to any
reached after the seating of a jury or commencement of
There is no time limit on non-economic terms. If more
non-economic terms are offered in a future agreement, sett

not
favorable to
within that state.
If a settling state enters into an agreement with a company
participating in this settlement and the terms are more
the industry, settling companies can benefit, but only

Settlement Amendment Provisions

and all
affected companies agree to the amendment.
The settlement can be amended only if all affected states

Key Dates

Settlement
Approval date.
date
the
this
has run,
favor of
initiatives and
the date
Finality
State
Final

There are three critical dates in the agreement: Master Execution Date, State Specific Finality date and Final Master Settlement Agreement Execution: this is the starting and it occurs when Attorneys General and the companies sign agreement. Various public health provisions are triggered by date.
State Specific Finality: This date occurs when a state court approves the settlement and consent decree and appeal time or, if there is an appeal, the appeal has been decided in approval. This important date keys more public health vest the state for financial recovery.
Final Approval: This is the earlier of June 30, 2000, or when 80 percent of the settling states reach State Specific and states with 80 percent of the financial allocation reach State Specific Finality. No money is dispersed to the states until Approval is reached.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cathy R. Mays (CN=Cathy R. Mays/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:13-NOV-1998 16:25:42.00

SUBJECT: Time Change -- DPC Team Leaders Meeting

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

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

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

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

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

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

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

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

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

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

CC: Chantell S. Long (CN=Chantell S. Long/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Teresa M. Jones (CN=Teresa M. Jones/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

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

TEXT:

The DPC Team Leaders Meeting on Monday will start at 9:30 a.m. in Bruce's office.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-NOV-1998 20:30:21.00

SUBJECT: here you go

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

last weekly ...===== ATTACHMENT 1 =====

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D14]MAIL450747716.326 to ASCII,
The following is a HEX DUMP:

FF57504370040000010A02010000000205000000C70B000000020000844D59B3509908CADF1AC8
F67A124CC25F421DBB19835C1DADADEF1AB1E3694EC98F7DCE9EB86E0B9836F365AD4FFAAF371
1C7B1062A6FE05AAF8DDCFBCFBDA701FFFBD864AE9093C12CFAE369833922AAA26AE48629137D
46956119228D50246479035A7DD27552503E89EA676D39A00D68963763C524346A9C09DDADF6EF
C9FEAE04F774395496808D5A70868D9424067AABC43F814329B1E68AAB91509728855330F69755
70D192532EBB818098F98E044BCF188B575E934AF76DF292FAB01DEFA69669BF4B615020C209D7

Part Human/Part Cow Stem Cell Research Update. Following troubling reports about research that produced an embryonic stem cell that is part human and part cow, we worked with OSTP and NIH to develop a recommendation to you for an appropriate, but strong response. As you know, this work concluded with your approval of a letter to the Chair of the National Bioethics Advisory Commission, Dr. Harold Shapiro, which outlined your serious concerns about the most recent report. In the letter, you requested that the Commission analyze the implications of the human/non-human stem cell research during their previously scheduled meeting next week and to report back to you shortly thereafter. You also requested a comprehensive review of other, more promising types of stem cell research, which appear to have great treatment potential for illnesses such as cancer, diabetes and heart disease, "balancing all ethical and medical considerations." This latter request has implications as it relates to the Congress' current prohibition against any embryo research. If the human-only stem cell research falls under this prohibition (as may well be likely), there will be growing pressure to develop a more carefully constructed and narrow prohibition from the research community (including NIH Director Varmus) and many patients' advocates. If you have an interest in moving in this direction, the Commission's findings and recommendations to your second request could well provide the ethical and scientific justification for a change in current law.

*Automated Records Management System
Hex-Dump Conversion*

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-NOV-1998 18:22:27.00

SUBJECT: I emailed you revised settlement weekly--more detail than old one. Cynthia

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

READ:UNKNOWN

TEXT: