NLWJC - KAGAN

EMAILS RECEIVED

ARMS - BOX 041 - FOLDER -002

[11/27/1998 - 11/30/1998]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:27-NOV-1998 09:58:50.00

SUBJECT: Request for Views on HR1870 Young American Workers' Bill of Rights

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CC: cla (cla @ sba.gov @ inet [UNKNOWN])
READ:UNKNOWN

CC: ca.legislation (ca.legislation @ gsa.gov @ inet [UNKNOWN])
READ:UNKNOWN

CC: clrm (clrm @ doc.gov @ inet [UNKNOWN])
READ:UNKNOWN

CC: justice.lrm (justice.lrm @ usdoj.gov @ inet [UNKNOWN]) (OA)

READ:UNKNOWN

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

CC: lrm (lrm @ os.dhhs.gov @ inet [UNKNOWN])
READ:UNKNOWN

CC: usdaobpaleg (usdaobpaleg @ obpa.usda.gov @ inet [UNKNOWN])
READ:UNKNOWN

CC: dol-sol-leg (dol-sol-leg @ dol.gov @ inet [UNKNOWN])
READ:UNKNOWN

TEXT:
NOTE: The bill is attached following the LRM.
Total Pages: ____

LRM ID: MNB245
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Wednesday, November 25, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference
OMB CONTACT: Melissa N. Benton
PHONE: (202)395-7887 FAX: (202)395-6148
SUBJECT: Request for Views on HR1870 Young American Workers' Bill of Rights

DEADLINE: Noon Wednesday, December 2, 1998

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS:
DISTRIBUTION LIST

AGENCIES:
62-LABOR - Robert A. Shapiro - (202) 219-8201
61-JUSTICE - L. Anthony Sutin - (202) 514-2141
7-Agriculture - Marvin Shapiro (LRMs & EBs) - (202) 720-1516
25-COMMERCE - Michael A. Levitt - (202) 482-3151
52-HHS - Sondra S. Wallace - (202) 690-7760
51-General Services Administration - William R. Ratchford - (202) 501-0563
30-EDUCATION - Jack Kristy - (202) 401-8313
128-US Trade Representative - Fred Montgomery - (202) 395-3475
107-Small Business Administration - Mary Kristine Swedin - (202) 205-6700

EOP:

Barry White
Larry R. Matlack
Debra J. Bond
Sarah S. Lee
Robert G. Damus
William H. White Jr.
Stuart Shapiro
Daniel J. Chenok
Steven M. Mertens
Sarah Rosen
Elena Kagan
Karen Tramontano
Kate P. Donovan
Janet R. Forsgren
LRM ID: MNB245 SUBJECT: Request for Views on HR1870 Young American Workers' Bill of Rights

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

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

You may also respond by:
(1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
(2) sending us a memo or letter
Please include the LRM number shown above, and the subject shown below.

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

FROM: ______________________________ (Date)

______________________________ (Name)

______________________________ (Agency)

______________________________ (Telephone)

The following is the response of our agency to your request for views on the above-captioned subject:

______ Concur

______ No Objection

______ No Comment

______ See proposed edits on pages ________

______ Other: ______________________

______ FAX RETURN of _____ pages, attached to this response sheet

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

TEXT:

HR 1870 IH

105th CONGRESS

1st Session

H. R. 1870

To amend the Fair Labor Standards Act of 1938 to reform the provisions relating to child labor.

IN THE HOUSE OF REPRESENTATIVES

June 12, 1997

Mr. LANTOS (for himself, Mr. CAMPBELL, Mr. ACKERMAN, Mr. BONIOR, Mr. BROWN of California, Ms. CARSON, Mr. DAVIS of Illinois, Mr. DELLUMS, Ms. ESHOO, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FOGLIETTA, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GONZALEZ, Mr. GUTIERREZ, Mr. HINCHEY, Mr. JEFFERSON, Mr. MANTON, Mr. MILLER of California, Ms. NORTON, Mr. OBERSTAR, Mr. OLVER, Mr. OWENS, Mr. RANGEL, Mr. SANDERS, Mr. SCHUMER, Mr. TIERNEY, Mr. TORRES, Mr. VENTO, Ms. WOOLSEY, Ms. VELAZQUEZ, and Mr. YATES) introduced the following bill; which was referred to the Committee on Education and Workforce

---

A BILL

To amend the Fair Labor Standards Act of 1938 to reform the provisions relating to child labor.

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

SECTION 1. SHORT TITLE: REFERENCE.

(a) SHORT TITLE- This Act may be cited as the `Young American Workers' Bill of Rights'.

(b) REFERENCE- Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Fair Labor Standards Act of 1938.

SEC. 2. REPORTING AND RECORDKEEPING.

(a) CHILD-LABOR LAWS- Section 12 (29 U.S.C. 212) is amended by adding at the end the following new subsection:

`(e)(1) The Secretary and the United States Census Bureau shall compile data from respective State employment security agencies in all the States (A) on the types of industries and occupations in which children under the age of 18 are employed and on the types of industries and occupations in which children who are 18 and full-time students in a high school are employed, and (B) on cases in which it was determined that minors were employed in violation of this section. The first such compilation shall be completed not later than 2 years after the date of enactment of the Young American Workers' Bill of Rights and each subsequent compilation shall be completed not later than 3 years thereafter.

`(2) If a minor in the course of employment suffers death or an injury or illness resulting in lost work time of at least 1 working day, not later than 5 days after the death, injury, or illness, the employer of the minor shall provide to the State agency a written description of the death, injury, or illness.

`(3) The Secretary of Health and Human Services, in conjunction with the Secretary of Labor, shall issue an annual report on the status of child labor in the United States and its attendant safety and health hazards.'.

SEC. 3. CERTIFICATES OF EMPLOYMENT.

Section 12 (29 U.S.C. 212) is amended by adding at the end the following new subsection:

`(e)(1) As used in this subsection, the term `parents' means the biological parents of a minor or other individual standing in loco parentis to a minor and the term `minor' means an individual who is under the age of 18 and who has not received a high school diploma or its equivalent or who is 18 and enrolled full-time in a high school.

`(2) No employer shall employ a minor unless the minor possesses a valid certificate of employment issued in accordance with this subsection.

`(3) The Governor of a State shall designate a State agency to issue certificates of employment to minors in the State. The agency shall make available, on request, a form for the application described in paragraph (4) and shall make available, as part of the certification process, materials describing applicable Federal requirements governing the employment of minors and the minor's rights under such requirements.

`(4) To be eligible to receive a certificate of employment, a minor must submit to the appropriate State agency an application that contains--

`(A) the name and address of the minor;

`(B) proof of age of the minor;

`(C) if the minor is under the age of 18 or is age 18 and enrolled full-time in a high school--

`(i) a written statement by the parents or legal guardian of the minor that the parents grant consent for employment of the minor; and

`(ii) a written verification from the minor's school that the minor is meeting at least the minimum school attendance requirements established by the State and that such employment will not interfere with the schooling of the minor; and

`(D) the employer's name, address, signature; and

`(E) with respect to the employment--

`(i) a statement on the nature of the work to be performed;

`(ii) the daily and weekly hours, and

`(iii) the times of day in which the work is to be performed.

`(5) On receipt of an application under paragraph (4), a State agency shall issue to the minor--

`(A) a certificate of employment, if the requirements of paragraph (4) are met; or

`(B) a statement of the denial of a certificate of employment (including the reasons for the denial), if the requirements of paragraph (4) are not met.

`(6) A certificate of employment issued to a minor under this subsection shall be valid for 1 year after the date of issuance of the certificate or for the duration of the permitted employment, whichever is shorter.

`(7) A certificate of employment issued to a minor under this subsection shall indicate--

`(A) the name, address, and date of birth of the minor;

`(B) a minor will not be employed more than 3 hours per day or more than 15 hours per week and shall be prohibited from working before 7 a.m. and after 7 p.m. when school is in session if such minor is between 14 and 16 years of age and will not be employed more than 4 hours per school day or more than 20 hours per week and shall be prohibited from working before 6 a.m. and after 10 p.m. when school is in session if such minor is 16, 17, or 18 years of age and a full-time student enrolled in a high school; and

`(C) the name, address, and telephone number of the State agency that may be contacted for additional information concerning applicable Federal requirements governing the employment of minors.

`(8) The State agency shall provide a copy of a certificate of employment issued to a minor who is not older than the age of 18 to the parent of the minor who granted consent pursuant to paragraph (4) and to the local school district where the minor is enrolled.

`(9) If an employer employs a minor, not later than 14 days after the date of the commencement of employment of the minor, the employer shall provide to the State agency written notice of the name and occupation of the minor and the number of the certificate of employment issued to the minor.

`(10) Each employer shall post a copy of the provisions of this Act relating to child labor at each premise of a worksite where one or more minors is employed.

`(11) A State agency shall report annually to the Secretary concerning certificates of employment issued under this subsection. The agency shall include such information as the Secretary requires (including information on the number of deaths and injuries of minors reported pursuant to subsection (f)).'.

SEC. 4. REVISIONS OF ORDERS AND REGULATIONS.

(a) ORDERS-

(1) In the administration of the Fair Labor Standards Act of 1938, the Secretary of Labor shall make the following revisions in the Secretary's child labor orders published in subpart E of part 570 of title 29, Code of Federal Regulations:

(A) The exemption provided in Order No. 2 (29 C.F.R. 570.52) shall apply to minors who are at least 18 years of age and to driving that is secondary and incidental to the minor's main occupation. Such exemption would be limited to 20 percent of the minor's work in any workday and may not exceed 5 percent of the minor's work in any workweek.

(B) Order No. 10 (29 C.F.R. 570.61) shall apply with respect to restaurants and fast food establishments. Such order shall prohibit minors who are under the age of 18 or who are 18 and are enrolled full-time in a high school from cleaning any machinery irrespective of who has disassembled the machinery.

(2) In the administration of the Fair Labor Standards Act of 1938, the Secretary of Labor shall find and declare that poultry processing, seafood processing, paper baling, power driven meat slicing, and pesticide handling are occupations that are particularly hazardous for the employment of minors for purposes of section 3(l) of the Fair Labor Standards Act of 1938.

(b) CHILD LABOR REGULATIONS- Under child labor regulation No. 3 (subpart C of 29 C.F.R. 570 et seq.)--

(1) individuals under 16 shall be prohibited from making door-to-door sales for profit,

(2) individuals under 16 shall be prohibited from using fryers, baking equipment, and cooking equipment in food service establishments, and

(3) strike out in section 570.34(b)(5) `(except at soda fountains, lunch counters, snack bars, or cafeteria serving counters)'.

SEC. 5. CRIMINAL PENALTIES FOR CHILD LABOR VIOLATIONS.

(a) WILLFUL VIOLATIONS THAT CAUSE INJURY OR DEATH- Section 16 (29 U.S.C. 216) is amended by adding at the end the following new subsection:

`(f) Any person who willfully violates the provisions of section 12, relating to child labor, or any regulation

issued under such section, shall, on conviction be punished--

`(1) in the case of a willful violation that causes serious bodily injury to an employee described in section 3(l) but does not cause death to the employee, by a fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 5 years, or by both, except that if the conviction is for a willful violation committed after a first conviction of the person, the person shall be punished by a fine in accordance with section 3571 of such title 18 or by imprisonment for not more than 10 years, or by both; or

`(2) in the case of a willful violation that causes death to an employee described in section 3(l), by a fine in accordance with section 3571 of such title 18 or by imprisonment for not more than 10 years, or by both, except that if the conviction is for a willful violation committed after a first conviction of the person, the person shall be punished by a fine in accordance with section 3571 of such title 18 or by imprisonment for not more than 20 years, or by both.'.

(b) NO PRIOR OFFENSE PREREQUISITE FOR CHILD LABOR VIOLATION- The second sentence of section 16(a) is amended by inserting before the period at the end the following: `, except that this sentence shall not apply to a violation of section 12'.

SEC. 6. CIVIL PENALTIES FOR CHILD LABOR VIOLATIONS.

Section 16(e) (29 U.S.C. 216(e)) is amended--

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by inserting `(1)' after the subsection designation;

(3) by adding at the end the following new paragraphs:

`(2) Any person who willfully violates the provisions of section 12, relating to child labor, or any regulation issued under such section, on more than one occasion, shall, on such additional violation, be ineligible--

`(A) for any grant, contract, or loan provided by an agency of the United States or by appropriated funds of the United States, for 5 years after the date of such additional violation;

`(B) to pay the training wage authorized by section 6 of the Fair Labor Standards Amendments of 1989 (29 U.S.C. 206 note); or

`(C) to employ a minor for a period of 5 years from the date of such violation.'.

SEC. 7. CIVIL ACTIONS FOR CHILD LABOR VIOLATIONS.

Section 16 (29 U.S.C. 216), as amended by section 4, is amended by adding at the end the following:

`(g) Any employer who violates section 12 shall be liable for such legal or equitable relief as may be appropriate. An action to recover such relief may be brought against any employer in any Federal or State court of competent jurisdiction by any employee subject to the protections of section 12 or by the employee's survivors. The court in such an action shall, in addition to any other judgment awarded to the plaintiff, allow a reasonable attorney's fee to be paid by the defendant and costs of the action. If the employee or the employee's survivors obtain a judgment under this subsection and also seek recovery for the same violation through State worker's compensation, this subsection does not preclude a State from choosing to offset recovery obtained under this subsection against recovery provided through State worker's compensation.',

SEC. 8. COORDINATION.

(a) IN GENERAL- The Secretary of Labor shall establish and encourage closer working relationships among Federal and State agencies having responsibility for enforcing labor, safety and health, and immigration laws.

(b) REFERRALS-

(1) The Secretary of Labor shall establish a referral system under which employees engaged in the enforcement of the Fair Labor Standards Act of 1938 and the Occupational Safety and Health Act of 1970 shall--

(A) exchange information about suspected violators of the Acts and monitor the results of referrals to each other, and

(B) provide basic training to each other's staffs concerning the requirements of such Acts.

(2) The Secretary of Labor shall require employees engaged in the enforcement of the Fair Labor Standards Act of 1938 and the Occupational Safety and Health Act of 1970 to establish a referral system with--

(A) employees of the Immigration and Naturalization Service engaged in the enforcement of the Immigration and Nationality Act, and

(B) employees of Departments of Labor of the States engaged in the enforcement of State minimum wage and occupational safety and health laws.

The Immigration and Naturalization Service and the State Departments of Labor shall each be encouraged by the Secretary of Labor to establish information exchanges and, to the extent practicable, provided training to each other's staffs concerning the requirements of the Acts enforced by the respective agencies.

(c) ADVICE FROM PRIVATE AND PUBLIC SECTORS- The Secretary shall seek information and advice from representative elements of the private sector and the non-Federal governmental sector with respect to the provisions of the Fair Labor Standards Act of 1938 and corresponding regulations as they pertain to the employment of minors.

(d) ADVISORY COMMITTEE- The Secretary shall establish an Advisory Committee for Child Labor to provide overall policy advice on matters referred to in subsection (c). The Committee shall be composed of not less than 21 individuals, and shall include representatives of government, labor, industry, education, agriculture, health professions, small business, youth, service industries, retailers, consumer interests, human rights, child welfare, parent groups, and the general public. The Committee shall meet quarterly at the call of the Secretary or upon the call of a majority of the Committee, a quorum being present. The Chairperson of the Committee shall be elected by the Committee from among its members. Members

of the Committee shall be appointed by the President for a period of 4 years and may be reappointed for one or more additional periods. The Secretary shall make available to the Committee such staff, information, personnel, and administrative services and assistance as it may reasonably require to carry out its activities.

SEC. 9. PUBLICATION OF VIOLATORS.

(a) IN GENERAL- The Secretary of Labor shall publish and disseminate the names and addresses of each person who has willfully violated the provisions of section 12 of the Fair Labor Standards Act of 1938 relating to child labor or any regulation under such section and the types of violations committed by such person and shall distribute the publication regionally.

(b) NOTICE TO SCHOOL DISTRICTS- The Secretary shall post and otherwise make available to affected school districts the name of each employer who violates the provisions of section 12 of the Fair Labor Standards Act of 1938, relating to child labor, or any regulation issued under such section together with a description of the location and nature of the violation.

SEC. 10. COVERAGE.

The provisions of sections 12 and 16(e) of the Fair Labor Standards Act of 1938 shall apply to employers regardless of the annual dollar volume of sales whereby certain enterprises are exempted from coverage under such Act.

SEC. 11. PROTECTION OF MINORS WHO ARE MIGRANT OR SEASONAL AGRICULTURAL WORKERS.

(a) DEFINITION OF OPPRESSIVE CHILD LABOR- The first sentence of section 3(l) (29 U.S.C. 203(l)) is amended--

(1) by striking `or' before `(2)'; and

(2) by inserting before the semicolon the following: `, or (3) any employee under the age of 14 years is employed by an employer as a migrant agricultural worker (as defined in section 3(8) of the Migrant and Seasonal Agricultural Protection Act (29 U.S.C. 1802(8)) or seasonal agricultural worker (as defined in section 3(10) of such Act)'.

(b) EXEMPTIONS- Section 13 (29 U.S.C. 213) is amended--

(1) in subsection (a)(6), by inserting before the semicolon at the end the following: `, except that this paragraph shall not

apply to an employee described in section 3(l)(3)'; and

(2) in subsection (c)--

(A) in paragraph (1), by striking `Except as provided in paragraph (2) or (4)' and inserting `Except as provided in paragraph (2), (4), or (5)'; and

(B) by adding at the end the following new paragraph:

`(5) The provisions of section 12 relating to child labor shall apply to an employee described in section 3(l)(3).'.

SEC. 12. REGULATIONS.

The Secretary of Labor shall issue such regulations as are necessary to carry out this Act and the amendments made by this Act.

SEC. 13. AUTHORIZATION.

There is authorized to be appropriated to the Secretary of Labor such sums as may be necessary for the additional costs resulting from the amendments made by sections 2 and 5.

END
================= END ATTACHMENT 1 =================

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Robert J. Pellicci@EOP@LNGTWY@LNGTWY (Robert J. Pellicci@EOP@LNGTWY@LNGTWY

CREATION DATE/TIME:30-NOV-1998 17:45:20.00

SUBJECT: Varmus' Statement on Stem Cell Research

TO: Elena Kagan@eop (Elena Kagan@eop [OPD])
READ:UNKNOWN

TO: Christopher C. Jennings@eop (Christopher C. Jennings@eop [OPD])
READ:UNKNOWN

TEXT:
Message Creation Date was at 30-NOV-1998 17:33:00

HHS (Tarplin) advises that there will NOT be a section on the role of the Federal Government in Varmus' testimony for Wednesday's hearing. Accordingly,
please let me know by 10 a.m. tomorrow (12/01) if you have any comments on the
Varmus statement.

NOTE: Tomorrow morning HHS will be sending us for review/clearance a number of
Q&As for the Wednesday hearing. I will circulate them to you as soon as they
are received.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:30-NOV-1998 18:43:56.00

SUBJECT: Team Leaders Meeting for Tuesday, December 1

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

TEXT:
The Team Leaders meeting is cancelled.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:30-NOV-1998 13:02:15.00

SUBJECT: General Couonsel Conference

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

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

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

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

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

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

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

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

TO: Jake Siewert (CN=Jake Siewert/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:
John is scheduled to speak Thursday (12/3) to 150 Treasury Department lawyers (including individuals from Treasury's various bureaus such as IRS, ATF, etc...) who are attending the fourth annual Treasury General Counsel Conference.

The Conference organizers have asked John in the broadest terms to talk about Administration priorities. Clearly there's a lot to speak about: Social Security, International Finance, the 2000 Budget, domestic agenda items (Patients' Bill of Rights and Education), etc.

Do you have any thoughts concerning the themes / issues he should focus on?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:30-NOV-1998 14:16:57.00

SUBJECT: From CRice: spoke to Christine G., she says many factors, including Medica

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

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

TEXT:

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:30-NOV-1998 13:25:54.00

SUBJECT: draft AIDS press release

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

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

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

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

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D89]MAIL43147243G.326 to ASCII,
The following is a HEX DUMP:

FF5750439C0A0000010A02010000000205000000A230000000020000651EBB2D0630F5E42F5814
D3082245A974FFF5E4A1EDB714E53E267AE228652C6F0A6FFDB52F7319A5A135DB90C4C8641F6C
C08F8DEB461DEA455BF6F5772B1CFC5C02652BF1F5D614243725AC43AD5FCE4EF280FBDBEE3435

PRESIDENT CLINTON UNVEILS NEW STEPS TO ADDRESS EMERGING CRISIS OF THE UP TO 40 MILLION CHILDREN WHO WILL BE ORPHANED BY HIV/AIDS BY 2010, COMMEMORATES WORLD AIDS DAY
December 1, 1998

Today, President Clinton, commemorating World AIDS Day, joined Secretary of State Madeleine Albright and U.S. Agency for International Development (USAID) Administrator Brian Atwood, to launch a series of new initiatives to address the growing crisis of children orphaned by AIDS. The President unveiled historic new increases at the National Institutes of Health dedicated to fund research aimed at developing an effective AIDS vaccine and new prevention strategies to help address the problem of HIV/AIDS throughout the world; announced new emergency funding from USAID to support international community-based AIDS orphan programs; and directed his AIDS policy advisor Sandra Thurman to lead a delegation to southern Africa to assess the growing problem of AIDS orphans and recommend new strategies for responding. The President:

✓ **Highlighted USAIDS projection that up to 40 million children who will be orphaned by HIV/AIDS by 2010,** over 90 percent of which live in developing countries that have too few resources to provide for their care and support. Globally, there are over 33 million people with HIV or AIDS, with another 5.8 million becoming infected every year. As with so many epidemics, children and young people are bearing much of the terrible burden of AIDS. In the United States, as many as 80,000 children have already been orphaned by AIDS.

✓ **Announced 30 percent increase this year in funding by the National Institutes of Health on research to prevent and treat HIV around the world.** The National Institutes of Health, representing the largest single public investment in AIDS research in the world, will support a comprehensive program of basic, clinical, and behavioral research on HIV infection and its related illnesses. These will include:

- **$200 million investment in research on AIDS vaccines to prevent transmission around the world, a thirty-three percent increase this year alone.** The development of a safe and effective AIDS vaccine is critical to stemming the growing problem of HIV/AIDS and AIDS orphans across the world. The President announced that NIH will dedicate $200 million in vaccine research in Fiscal Year (FY) 1999, a $47 million increase from FY1998 and an 100 percent increase since FY1995. This investment is critical in supporting the President's challenge to make AIDS vaccine research a national and international priority.

- **$164 million for other new research critical to addressing the HIV/AIDS epidemic across the world.** The President also announced that the NIH will invest $164 million, in FY1999, a $38 million increase, over last for critical projects to reduce the number of AIDS orphans by preventing and treating HIV/AIDS internationally, including: a new prevention trials network to reduce adult and perinatal transmission of HIV/AIDS; new strategies to prevent and treat HIV infection in children; funding to train more foreign scientists to collaborate on this epidemic; research on the prevention and treatment of the opportunistic infections, such as tuberculosis, that commonly kill people with HIV/AIDS; and research on topical microbicides and other female-controlled barrier methods of HIV prevention.

✓ **Unveiled $10 million in emergency relief funding at USAID to provide support for AIDS**

orphans. USAID will make available $10 million in emergency funding to support community-based efforts for orphans, including training and support for foster families, initiatives to keep children in school, vocational training, and nutritional enhancements. In addition, USAID will take steps to help prevent the spread of HIV from mothers to children and to improve medical care for children already infected with HIV.

✓ **Directed AIDS Policy Advisor Sandra Thurman to lead fact-finding delegation to raise awareness and make recommendations to growing address problem of AIDS orphans.** President Clinton asked Sandra Thurman, Director of the Office of National AIDS Policy, to lead a fact-finding delegation to southern Africa, where 90 percent of AIDS orphans reside. The delegation will include representatives from across the Clinton Administration, key Congressional offices, and the national media to raise awareness about this emerging problem and to develop recommendations for action.

✓ **Unveiled new steps to address the continued need of those living with HIV/AIDS in the United States.** While the problem of AIDS orphans is most acute internationally, the President also underscored that HIV/AIDS impacts and displaces families in this country as well. The President highlighted that today the Vice President will be unveiling over $200 million in funds for the Housing Opportunities for People With AIDS program this year to assist communities around the country to keeping individuals affected by HIV/AIDS and their families from becoming homeless. The Vice President will announce these grants at a meet with local community leaders who provide housing and other support services for people living with HIV/AIDS, as well as several individuals and families who have benefited from their services.

✓ **Built on a solid record of achievement in HIV/AIDS.** Today's announcements build on a deep ongoing commitment by the Clinton Administration to respond to the AIDS crisis both in the United States and across the world. The Administration has fought for other critical investments in HIV/AIDS. This year alone, the President:

- Declared HIV/AIDS in racial and ethnic minority communities to be a severe and ongoing health care crisis and unveiled a new $156 million initiative to address this problem, including crisis response teams, enhanced prevention efforts, and assistance in accessing state-of-the-art therapies all targeted toward ethnic and racial minorities in communities across the country;

- Worked with Congress to secure historic increases in a wide range of effective HIV/AIDS programs. Increases this year alone include: a $262 million increase in the Ryan White CARE Act; a 12 percent increase in AIDS research funding at the NIH, a $32 million increase HIV prevention programs at the CDC; and a $21 million increase in the Housing Opportunities for People With AIDS program at HUD.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:30-NOV-1998 23:28:12.00

SUBJECT: AIDS Action Report Card

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

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

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

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

TEXT:
We just learned this evening that AIDS Action is releasing a report card grading the Federal government's success -- or lack there of -- in responding to the challenge of HIV/AIDS. The government, although not explcitly the Clinton Administration, received "As" for research and domestic treatment programs but received a "D" for prevention initiatives. Most notably, however, AIDS Action awarded an 'F' for efforts to address the international crisis. They released their report card notwithstanding their knowledge about the President's event today.

Chris complained to Sandy who was unaware of the document but immediately confronted Ex. Director Daniel Zingale. Daniel stressed that this was a government wide report card and stated that he will be quite supportive tomorrow of our new initiative. However, Chris talked to at least one wire story that apparently has this report card and is likely to include it in their coverage. Chris assured that the reporter was aware of the AIDS Action's position on our initiative and he indicated that he received generally favorable quotes from Zingale for his story.

Sandy is drafting q&as for our review. Clearly we will have deal with this to the extent that it is covered by the media.

sb

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:30-NOV-1998 13:40:26.00

SUBJECT: SCHEDULE UPDATE

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

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

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

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

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

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

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

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

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

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

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

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

TO: Nicole R. Rabner (CN=Nicole R. Rabner/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

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

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

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

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

READ:UNKNOWN

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

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

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

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

TEXT:

November 30	Electronic Commerce Event
December 1	World AIDS Day Event
December 2	Democratic Leadership Meeting
	DLC Leadership Dinner
December 3	Bipartisan Patients Bill of Rights Event
December 4	Economic Event (EITC/Jobs #s) OR Possible Press Conference (
	Tape Radio Address (Drunk Driving Prevention)
December 7	Prison Drug-Testing Event (T)
December 8	WH Conference on Social Security
December 9	WH Conference on Social Security
	Pageant of Peace
December 10	Child Safety Event (T)
December 11	Central American Leaders Meeting/ Donors
Conference OR	Possible
Press Conference (T)	
	Tape Radio Address (Middle East Trip)
December 12-	Middle East Trip
December 15	
December 16	No Message Opportunity
December 17	Y2K Event (T)
December 18	US-EU Summit at the White House
	HIV/AIDS Council Meeting
December 19	Live Radio Address (Airline Safety)
December 21	Pan Am 103 Anniversary Event, Arlington Cemetery
	Possible Service Event (Shelter Visit) (T)
December 22	Children□,s Christmas Reading Event
December 23 -	VACATION
January 4	

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Shannon Mason (CN=Shannon Mason/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:30-NOV-1998 17:58:28.00

SUBJECT: Farm Safety Net paper

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

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

TO: Sylvia M. Mathews (CN=Sylvia M. Mathews/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

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

TO: Elise H. Golan (CN=Elise H. Golan/OU=CEA/O=EOP @ EOP [CEA])
READ:UNKNOWN

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

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

CC: Frazierp (Frazierp @ midusa.net @ inet [UNKNOWN])
READ:UNKNOWN

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

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

CC: Rhonda Melton (CN=Rhonda Melton/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

TEXT:

Here is the revised version of the ag safety net paper. Please review and send any comments to Mark Weatherly with a cc to Sally Katzen COB tomorrow (12/1). Also, please indicate your department or agency's view on each of the options.

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

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D13]MAIL457385431.326 to ASCII,
The following is a HEX DUMP:

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26CB36BD65380FE0831DB95E8DA621BF48BB918D7EFC5BECFDBFFC1D834011BD51C0B2C23F9BD4

DRAFT
11/30/98

HOW TO FIX THE FARM INCOME SAFETY NET

I. Introduction

For more than a decade bipartisan farm policy has directed producers to seek income increasingly from markets rather than from Federal subsidies. The 1994 Crop Insurance Reform and 1996 Farm Bills attempted to create a farm income safety net of market-oriented crop insurance and commodity marketing loan programs, rather than ad hoc disaster, market intervention, and price support programs. Farm income reached a record $61 billion in 1997 as export demand grew and world commodity stocks tightened from 1995.

In 1998 in the US, regional inadequacies of crop insurance (including low coverage and participation), weather and multi-year production problems, and nation-wide low prices for many commodities provoked sharp criticisms of the 1996 Farm Bill and crop insurance. Proposals appeared in July to revive price-setting Federal subsidy programs, mainly through raising USDA's "marketing loan rate" to boost crop payments to farmers (see Appendix B for discussion).

II. Administration Proposals

In response, an NEC-led interagency group this summer crafted a package of proposals to address the specific areas of need throughout the nation's farmland. This included targeted assistance for regions of need, primarily through a supplemental crop insurance benefit for multi-year losses.

Second, the President announced on July 18th the purchase and donation overseas of 2.5 million tons of wheat to boost US farm prices and to relieve hunger around the world, using existing USDA authorities and mandatory funding. In November, the President announced an additional food-aid package of 3.1 million tons of wheat and other commodities for Russia.

Finally, the Administration agreed to support Sens. Harkin's and Daschle's proposal to remove the 1996 Farm Bill limitation on marketing loan rate levels.

III. Status of Farmer Assistance

The Administration negotiated a $6 billion disaster assistance package in the FY 1999 Omnibus Appropriations Bill to boost farm income. The President further charged Secretary Glickman with addressing the "gaps" in the farm safety net that were exposed during the 1998 crop year. Recently, the Congressional Agriculture Committees have announced their intention to address the problems through the crop insurance program.

The marketing loan provisions of the 1996 Farm Bill did work to the extent of providing $2 billion to farmers under existing authority, spending that was not projected in the FY 1998 Mid-Session Review of the Budget. The $6 billion in additional assistance should maintain farm income in crop-year 1998 near the 1997 record level. The issue is how much enhancement does the safety net need? Should Federal programs prevent any farmer's income from falling below the five-year average level? Should income supplements be targeted to smaller, low-income farmers? Total additional USDA outlays for production agriculture approved since July, above those assumed in the FY 1999 Budget, amount to approximately $10 billion, including the costs of the recent food-aid programs.

IV. Problems in Farm Country and Options for Dealing with Them

In its FY 2000 Budget request, USDA proposes to continue the path of the 1996 Farm Bill, and Administration policy, by helping farmers to manage risk. It recommends a series of program changes to: make crop insurance more attractive by covering more risk at reduced costs; enhancing emergency programs; and expanding risk-management education. A proposal could also re-establish the requirement that farmers purchase crop insurance, and send a message to farmers that these increased insurance subsidies would negate the likelihood of future emergency payments such as those provided through the FY 1999 Omnibus bill.

Gaps in the Safety Net

This section lists the five main problems with the current farm income safety net, then analyzes the options, in addition to the USDA proposals. The options can be dialed by benefits and costs. Also, to achieve targeting by income or gross revenues, means-testing could be overlaid on most options.

Problem One: Crop loss due to natural disaster -- crop insurance can fail to indemnify enough of the loss because:

a) Too little acreage is insured (i.e., too few farmers participate); and
b) Insured acreage is covered at too low a percent of expected revenue (i.e., too little coverage is purchased by the average farmer).

Problem Two: Multi-year crop loss due to natural disaster, where:

a) Poor production history hurts "good" farmers by raising premiums and lowering the insurable yield; and
b) Even higher, "buy-up" coverage levels, after consecutive loss years, may indemnify too little to sustain the farm operation.

Problem Three: Low prices nationally, as much as 40 percent below the 5-year average, primarily due to large harvests and reduced export demand.

Problem Four: High producer expenses, where:

a) certain regions have high production costs arising from natural factors; or
b) exogenous shocks raise input costs like fuel, or livestock feed from a small crop.

Problem Five: Insufficient payments to neediest or smallest farmers while most payments continue to go to relatively wealthy and large-scale farmers.

Options:

1. Enhance Crop Insurance. Increase crop insurance subsidies on all Federal crop insurance products, both "yield insurance" and "revenue insurance" plans. This would be achieved by increasing coverage on free Catastrophic (CAT) policies and increasing premium subsidies on higher levels of yield and revenue insurance. **(See Appendix A for background on crop yield and revenue insurance.)**

Estimated costs:	2000	2001	2002	2003	2004
(outlays in millions of dollars)			1,541	1,587	1,635

1,684 1,734

The proposed increases hold two strong attractions for farmers: a) the obvious attraction of increasing the value of their insurance policy at no extra cost, and b) increasing the likelihood that they will receive an indemnity payment. In other words, instead of simply decreasing the amount of farmer-paid insurance premium cost at current coverage levels (which would have no impact on the probability of receiving an indemnity payment), the USDA proposal would both avoid cost increases to the farmer and raise the level of indemnity payments.

Revenue insurance policies are currently subsidized by USDA at a lower percentage than comparable yield insurance policies. This option would increase the USDA premium subsidy for revenue insurance on par with yield coverage, increasing the incentive to purchase this expensive, but more comprehensive, coverage. It also has the added positive effect of increasing the farmers' incentive to sell their crops on the forward market.

Farmers are notoriously reluctant to forward contract much of their crops out of fear that prices will increase after they have locked in their forward price. Crop Revenue Coverage (CRC) allows farmers to forward contract with the confidence that if prices go up after they have obligated themselves to deliver at a lower price, they will not miss out on higher revenues because CRC indemnifies against missing out on higher prices. The commodity exchanges find this aspect of revenue coverage attractive because trading volume would increase. However, they also have expressed some concern over the extent to which subsidized revenue coverage might compete with their futures and options contracts.

Ensuring Participation

Because this option is in large part a marketing strategy to increase program participation, its success ultimately hinges on its impact on buyer behavior. Insurance is not currently required of producers, and they will have to make their own risk management decisions -- to buy or not to buy. However, large media advertising campaigns (also proposed by USDA) combined with a program structure that would virtually eliminate the lower coverage range of buy-up insurance would help to ensure the expected response on the part of farmers, as long as they can be convinced that the government will not once again revert to ad hoc disaster payments as future "disasters" arise.

However, to reduce the uncertainty associated with buyer behavior, the Administration could reimpose the provision of the 1994 Crop Insurance Reform Act which required producers to purchase some level of crop insurance in order to receive any other USDA program benefits, especially the basic AMTA payments. This so-called "linkage" provision was in effect for one year, the 1995 crop year, and resulted in nearly doubling the amount of crop insurance sales. Linkage was not particularly controversial, and its abolition in the 1996 Farm Bill in response to some producers' objections was accomplished without serious policy review by the Administration or Congress.

<u>Pro</u>:

- Consistent with the market-oriented farm policies of the 1996 Farm Bill.
- The President explicitly noted the need to fix crop insurance.
- Has best chance of enactment, given congressional Agriculture Committees' stated plan to propose major improvements in crop insurance.
- Would significantly increase crop insurance participation if not undermined by ad hoc disaster spending, and particularly if "linkage" is re-established (requirement that a producer buy crop insurance in order to participate in other USDA programs).
- Crop insurance is more inclusive than many other USDA programs, covering nearly 70 different crops.
- Crop insurance is more friendly to the beginning farmer. Other programs (e.g., AMTA payments) have more cumbersome eligibility hurdles.
- Avoids sending a "mixed message" on the economic structure of farm policy (the hope of future ad hoc disaster spending or direct price/income support), and encourages producers to actively manage their risk, albeit on very concessional terms.
- More revenue insurance purchases would increase the number of producers protected against both weather risk and market risk.

- Private commodities exchanges expect to benefit from increased trading volume.

- Could be used as a "transitional" fix: Subsidies could be dialed down as future conditions and policies warrant.

<u>Con</u>:

- Because the program does not guarantee benefits or require participation, its efficacy is ultimately dependent on buyer behavior (unless "linkage" is re-established).

- Increasing coverage at the CAT level could result in a "buy-down" effect; i.e., farmers who previously paid for buy-up insurance opt for free CAT coverage.

- Budget "watchdog" groups may protest the new subsidies to U.S. agriculture as unnecessary.

- Private commodity exchanges might object to perceived competition from government-subsidized price risk management tools, i.e., revenue insurance.

2. Fix Multi-year Crop Insurance. Introduce a new multi-year loss insurance provision as an optional add-on to the crop insurance policy. A version of this was included in the Administration's summer '98 farm disaster aid package and enacted in the Omnibus bill. This proposal would make the availability of multi-year coverage permanent.

Estimated Costs	2000	2001	2002	2003	2004
(outlays in millions of dollars)	171	176	181	187	192

The development of this provision is only in the discussion stages at USDA but the product could be rolled out by the 2000 crop year. OMB would work with USDA to ensure that no duplicate benefits would be paid through these provisions to either new insureds or producers who received 1998 emergency assistance for multi-year losses.

The 1998 emergency multi-year loss benefits simply provided supplemental indemnity payments to qualified insured farmers equal to 25 percent of the indemnities received over the relevant crop years. The new policy provisions would likely have a similar effect, i.e., retroactively increase coverage levels for consecutive-loss years (if the farmer was insured in each year) and pay out supplemental indemnities. The actual structure of the coverage has yet to be proposed by USDA.
It would be for multiple years or losses but not in perpetuity (e.g., cap at 5 or 6 years).

<u>Pro</u>

- Consistent with the market-oriented farm policies of the 1996 Farm Bill.

- Directly responds to one of the most vocal constituencies, (the Dakotas) during the debate on 1998 emergency assistance.

- Crop insurance covers more crops and is more available to new farmers than most other USDA commodity assistance programs.

Con

- Because the program does not guarantee benefits or require participation, its efficacy is ultimately dependent on buyer behavior.

- Moral hazard, while true for subsidized crop insurance generally, could be greater.

3. Cover More Non-insured Crops. Increase support for non-insured crops covered by the Non-insurance Crop Assistance Program (NAP).

Estimated costs:	2000	2001	2002	2003	2004
(outlays in millions of dollars)	475	489	504	519	535

Despite the growth in the number of crops covered by the insurance program over the last decade, many crops remain for which no insurance is available, e.g., artichokes, lettuce, ginseng, mushrooms, and many more. This option proposes to increase NAP coverage on par with coverage increases of CAT insurance; i.e, guarantee about 42 percent of expected revenue, and includes livestock among "non-insured" commodities covered under NAP.

Benefits can be targeted, such as through USDA's proposal to increase crop-loss assistance on non-insured crops for small farms, and provide increased incentives for private companies to seek out and "sell" free CAT coverage to limited resource farmers.

Pro:

- Addresses the vulnerability of producers who raise crops and livestock for which no insurance exists.

- Could be perceived as unfair if CAT coverage is raised while NAP is not.

Con:

- Costly to cover more minor crops, mostly vegetables, which was not a source of national farmer dissatisfaction in summer '98.

4. Promote Commodity Options. Increase USDA's current educational options pilot programs (OPP) and other risk management education and outreach efforts.

Estimated costs: (outlays in millions of dollars)	2000	2001	2002	2003	2004
OPPs on two commodities	21	22	22	23	24
Education and outreach	29	30	31	32	33

Options on futures contracts are often cited as the equivalent of price insurance. Producers who purchase "put" options have effectively purchased a price floor. When prices go up, they can still enjoy the benefits of higher prices, but they are protected if prices fall below the floor, or "strike price", they purchased.
USDA has recently implemented a program to teach dairy farmers how to use these markets that provides a short term, hands-on trading experience with USDA sharing the cost of the options contracts. The program lasts only for six-months per producer and allows the producer to buy options on a limited quantity of milk. The producer learns the markets, the terminology, hedging strategy, and how to select and deal with a broker.

The program vision is not for permanent subsidies. Its sole objective is to educate the producer in the hope that the producer will continue to manage price risk using options after "graduating" from the short term, subsidized program. For OPPs to succeed, legislation would require a change to remove language requiring budget neutrality. The 1996 Farm Bill stipulates that OPPs must be budget neutral "to the maximum extent practicable". USDA interprets that to mean that recipients of USDA program payments who participate in an OPP must forego in program payments the amount of the subsidies they will receive under the OPP. This provision does not apply in USDA's current dairy OPP because dairy farmers are not currently receiving program payments. Thus, the offset is not "practicable".

In addition, USDA would conduct aggressive outreach programs to organize county-level workshops, develop university curricula, and a multimedia advertising campaign.

Pro:

- Consistent with the market-oriented reforms of the 1996 Farm Bill.
- Futures/options markets exist for most of the eight major "program crops".
- Complements the other options such as increased insurance coverage by alerting and introducing farmers to risk management tools.

Con:

- Futures/options markets exist for only a limited number of crops.

5. Permit Risk Management Accounts. Provides a tax advantage for building financial reserves to be used for farm contingencies. In its "Bluebook" of policy guidance for the 1996 Farm Bill, the Administration proposed "income stabilization accounts". Treasury representatives suggest that the permanent tax relief measures for farmers in the FY 1999

Omnibus Appropriations Bill are sufficient. These included: extending loss-carryback provisions in "good" years for farmers, and permanent extension of income averaging. These were scored by Treasury as reducing tax receipts by $36 million annually, but the actual effect of these changes in the tax code on farm income is not yet known. (A similar, "FARRM" IRA proposal was nearly adopted in the FY 1999 Omnibus bill.)

Risk management or income stabilization accounts could be designed to provide benefits for only relatively small or low-income farmers. Such accounts are being tried in Canada and France. They normally permit pre-tax deposits into the account up to a certain amount. Incentives such as a government contribution component could be considered as well. In the event of a disaster, the farmer is permitted to withdraw the funds without penalty. The withdrawals would help support the farmer until the next crop year and would likely be taxed in a lower bracket than the farmer's normal income.

The income amounts deposited, the withdrawal triggers (e.g., decreases in gross revenues, net income, price index below moving average, etc.), eligibility and consequent costs are widely adjustable. This concept could be announced as a pilot program for a specific commodity or region.

Estimated costs: (outlays in millions of dollars)	2000	2001	2002	2003	2004
	200	200	200	200	200

Pro:

- Encourages prudent savings while reducing the impact of future disasters on both the farmer and the Federal budget.
- Builds on producers' current ability to manage their income streams by savings and timing of input and capital purchases for tax purposes, popular approaches for farmers.
- Makes more comprehensive an Administration safety net policy of "various solutions appropriate to segments and conditions in farm country".

Con:

- Treasury representatives believe this option would - if not targeted - disproportionately aid large, wealthy farmers while providing little assistance to small farmers.
- Low farmer participation would be expected.

6. Strengthen Standing Emergency Programs. USDA's proposal includes assistance for livestock, and would allow farmers to receive both CAT and NAP benefits, USDA disaster loans, and other USDA farm credit. Some were included in Summer '98 Administration package.

Estimated costs (outlays in millions of dollars)	2000	2001	2002	2003	2004

a) Emergency livestock feed	24	25	25	26	27
b) Allowing both CAT and NAP benefits	10	10	11	11	11
c) Small agriculture-related business loans (discretionary)	(50)	(52)	(54)	(56)	(58)

Pro:

- Small farm- and small business-oriented.

- CAT and NAP can be re-structured to also limit benefits to larger, well-capitalized operations.

Con:

- Without proper limits in place, CAT and NAP are subject to abuse by larger businesses.

7. **Land Retirement.** Some producers farm land that encounters natural disabilities (like excessive wetness or disease) that persist longer than one year, but that is likely to return to production. USDA could enter medium-term contracts (3 - 5 years non renewable) to retire such land, including land in the Upper Plains that is diseased or under water, or land in the southwest that is quarantined due to karnal bunt. Payments would be made for "environmental benefits", including conservation practices aimed to restore the land to production. An area-wide problem could be required to trigger in a farm's land for eligibility. USDA's Conservation Reserve Program (CRP) retires land for 10-year periods, but not when they are made unproductive due to natural afflictions. A version of this proposal was included in Administration's Summer '98 package and in the 11/13 USDA budget letter, but was not enacted.

Estimated costs: (outlays in millions of dollars)	2000	2001	2002	2003	2004
	50	75	100	100	100

Pro:

- Would fill a gap in the current program structure, since there is no program aimed at this problem.

Con:

- Unlikely need for medium-term retirement program; land problems better ameliorated through farming practices or a program that would permanently retire land.

8. **Marketing Loans.** Uncap 1996 Farm Bill levels. **(See Appendix B)**

Estimated costs	2000	2001	2002	2003	2004
(outlays in millions of dollars)	4,000	4,000	4,000	3,000	3,000

Removing the 1996 Farm Bill's limitation on marketing loan rates (85 percent of a five-year moving average minus high and low years, but not more than the 1995 level) would enable the loan rates to rise to a level that practically guarantees regular annual payments in the years ahead.

This would turn the marketing loan program into a type of "deficiency payment," a program abolished by the 1996 Farm Bill. As a general commodity program, it would apply to all major field crops for the 1.8 million participants in USDA crop subsidy programs. This was proposed by Sens. Harkin and Daschle in the summer, and by the Administration in some forms, but defeated in Congress on six occasions.

A targeted version, a "two-tier marketing loan", was proposed by Sen. Daschle in the 1996 Farm Bill deliberations. This proposal would offer a higher loan rate for a minimum volume of production per farmer, e.g., the first 10,000 bushels. Production above that level would receive a lower loan rate or none at all. This regime would provide relatively greater benefit to smaller producers.

Pro

- Popular with many populist supporters of the Administration.

- Would be perceived as supporting smaller, less efficient farmers.

Con

- Would return farm policy back to failed, costly past programs that hurt US exports and would lead to production supply controls, widely unpopular with farmers.

- Untargeted version would provide gratuitous financial windfall to many farmers.

- Targeted version would be opposed by many larger farmers, especially of cotton and rice.

- Would compete/conflict with market-oriented programs (e.g., revenue insurance, OPPs).

- Fails to help individual farmers with diminished or failed crop.

9. Federal Assistance for Exports. Donations and support for faltering export markets.

Estimated costs (outlays in millions)	2000	2001	2002	2003	2004
	2,500	2,500	2,500	2,500	2,500

The humanitarian food aid packages of July for wheat and November for Russia could be extended so long as the commodity to be donated remains in surplus in the US. While sufficient funding usually is not an obstacle for the mandatory programs and emergency authorities involved, this action is limited by GATT rules on subsidies, our trading partners' complaints, and the undermining of US commercial exports. The actual impact of Federal donations on US farm prices is in dispute, but the announcements of donations are seen as popular among many farmers, if not commodity markets. The Administration's active role in managing the Asian economic crisis--a major cause of reduced demand for US agricultural exports--is viewed as a general form of help to US farmers, but indirect and longer-term.

Pro:

- Perceived in farm country as positive action.

- Can cause "additional" exports to those countries unable to purchase food.

Con

- Need for bulk commodities is limited. Truly hungry people not already being supplied by standing government programs tend to need consumer-ready foodstuffs.

- Limited by tendency to displace US commercial exports.

- Unpredictable impact on markets means unreliable domestic farm support program.

V. Offsets

USDA has not proposed any offsets to date. OMB recommends PAYGO offsets from cuts in guaranteed Agriculture Market Transition Act (AMTA) payments. The shift in funding would effectively redistribute funds guaranteed to producers who have not experienced crop losses and rewards those who have actively managed their yield risk and paid a share of the associated costs. AMTA payments are only authorized through FY 2002; however, baseline rules extend the authorization and baseline spending indefinitely.

The distribution of AMTA payments by state compares favorably to the expected redistribution of funds through increased crop insurance subsidies. Some discrepancies arise among certain Midwestern states (Iowa, Illinois, Indiana, Nebraska) that receive significant AMTA payments and whose proportion of benefits would likely be eroded and shifted toward states with higher crop insurance losses. Many of the states experiencing increases in their proportional benefits are those with particular problems over the most recent period (Texas, North Dakota, Minnesota, Georgia, North Carolina, South Carolina). In effect, the redistribution takes benefits from areas with a lower incidence of crop losses and moves them to areas that have been harder-hit in the past year and have had historically higher levels of uninsured or underinsured producers. Further, in a loss-year similar to the one experienced in 1998, the redistribution of benefits channels funds much more dramatically to areas in the most need.

However, crop insurance indemnities are not guaranteed as are AMTA payments. Coverage begins at specified loss levels verified at the individual farm level. The same number of dollars is projected to be disbursed over the long run, but wide variations in year-to-year outlays will occur. The proposal channels funds to farmers who have taken proactive steps to manage their risk and suffered verified losses, at the cost of guaranteed payments withdrawn from farmers holding AMTA contracts. Using AMTA payments as an offset achieves some targeting of AMTA benefits.

BACKGROUND

Appendix A: Crop Insurance

Yield Insurance (USDA's standard multi-peril crop insurance products)

Crop insurance coverage is made up of two components, yield coverage and price coverage. The buyer can choose among various coverage combinations of both yield and price. The minimum coverage level insures 50 percent of average yield at 60 percent of a USDA-set price. This plan is known as Catastrophic Risk Protection (CAT), or "50/60" coverage.. The highest coverage available nationally is the 75/100 level. The most popular coverage to date is the 65/100 level. At this level of coverage, if the insureds suffer a 50 percent yield loss, they are made whole on the lost production up to 65 percent (or 15 percent in this case) and the indemnity payment would amount to the 15 percent of covered loss times 100 percent of the USDA-set price.

USDA offers two general levels of insurance coverage; Catastrophic Risk Protection (CAT), and so-called "buy-up" coverage which is all coverage levels higher than CAT. CAT premium is 100 percent subsidized and the farmer only pays a nominal administrative fee for it. CAT covers only 30 percent of expected revenue. Buy-up coverage is available at levels between 60 and 75 percent of expected revenue and is subsidized on a scale that slides downward as coverage increases. In other words, 65 percent coverage involves a 40 percent premium subsidy, and 75 percent coverage involves a 24 percent subsidy.

USDA has performed marketing analysis to estimate how much an average producer is willing to pay for buy-up crop insurance. That amount is $5.30 for each $100 of liability insured. USDA proposes to apply that farmer-paid amount to a coverage level that is considered high enough to restore credibility to the crop insurance program in the wake of the harsh criticisms last summer. That level is 70 percent of expected revenue.

The following example illustrates how the insurance coverage works:

a) a corn grower with 1,000 acres and an average yield of 100 bushels per acre has an expected yield of 100,000 bushels;

b) the insured price set by USDA is $2.30 per bushel;

c) "70/100" coverage is purchased, so the farmer has insured $161,000 of liability (70,000 bushels at $2.30/bu.);

d) if the farmer experiences a 40 percent yield loss (i.e., a harvest of 60,000 bushels) an indemnity of $23,000 would be paid (i.e., the 10,000 bushels that would make the farmer whole up to 70 percent of average production multiplied by 100 percent of the $2.30/bu. price);

e) the total insurance premium for the coverage would likely be around $13,000, of which 32 percent, $4,160, is currently paid by USDA;
f) USDA also reimburses the private insurers' administrative expenses at a rate of 24.5 percent of gross premium, or in this case $3,185.

Revenue Insurance

Standard crop insurance policies do not indemnify producers who have not experienced crop losses due to natural causes. However, even a producer who harvests 100 percent of expected yield can be put on difficult financial footing through price declines. The Federal crop insurance program currently offers three policies that provide indemnities in the event of falling prices regardless of crop losses ("revenue insurance"). These products are all less than three years old. Two are struggling to become established but one has been very successful. Crop Revenue Coverage (CRC), developed by one of the private crop insurance companies, now accounts for 16% of the crop insurance market (nearly $300 million in annual premium). This is a very high growth rate over just three years, particularly in light of its price tag -- CRC premiums are 30 percent higher than comparable yield insurance on average.

Revenue insurance policies are subsidized by USDA at a lower percentage than yield coverage. It is worth noting that, in light of this lower subsidy on a high-priced policy, CRC's growth tends to contradict the notion that farmers are unwilling to pay significant premium costs for crop insurance. This, in turn, further supports options that retain market-oriented safety net programs, with an eye toward dialing down subsidies over the long term.

CRC's success in the market is attributable to one unique component of its coverage; CRC indemnifies if prices fall *and* if prices rise; CRC will indemnify yield loss at the current market price if it has gone up during the insurance period. To summarize, revenue policies work much like standard policies but pay out indemnities in more circumstances:

a) yield loss when prices remain unchanged (like standard policies);
b) yield loss when prices fall (like standard policies);
c) yield loss when prices rise (CRC pays out at the higher market price);
d) no yield loss but prices fall (revenue policies only).

The following is an example of revenue insurance, scenario "d" above:

a) a corn grower with 1,000 acres and an average yield of 100 bushels per acre has an expected yield of 100,000 bushels;
b) the insured price, established by the average price of December corn futures during the month of February, is $2.45 per bushel;
c) "70/100" coverage is purchased, so the farmer has insured $171,500 of liability (70,000 bushels at $2.45/bu.);
d) by December, the farmer has no yield loss (i.e., a harvest of 100,000 bushels)

e) but, the average price of that same December corn futures contract at harvest time (November) has dropped to \$2.00/bushel (i.e., down 45 cents/bushel). An indemnity of \$31,500 would be paid (i.e., the 70,000 bushels insured multiplied by 100 percent of the \$0.45/bu. price decline);

f) the total insurance premium for the coverage would likely be around \$17,000, of which 24 percent, or \$4,160, is currently paid by USDA;

g) USDA also reimburses the private insurers' administrative expenses at a rate of 23.5 percent of gross premium, or in this case \$3,995.

Appendix B: Boosting Farm Income Through Marketing Loans

A major goal of some farm interests is to increase USDA's "marketing loan rate" so it would guarantee farm income robust enough to cover the relatively higher costs of production of some U.S. farmers. Sens. Daschle and Harkin were chief proponents of increasing ("uncapping") marketing loan rates during the summer's debate on how to improve the farm income safety net.

How marketing loans work

USDA's marketing crop loans, a program to enable farmers to avoid selling during the lowest- price (harvest) period of the year, basically set a price floor for the crop, backed by the Treasury. Farmers take out a 9-month loan from USDA at harvest time based on a statutory "loan rate" or
price per bushel. If market prices drop below the loan rate, farmers can repay the loan at the lower market price per bushel. USDA absorbs (loses) the difference between the market price and the (higher) loan rate price, and the farmer keeps the crop to sell on the market. Marketing loans are available for the major US field crops, like wheat and corn. Payments under the program are limited to \$75,000 per person per crop year.

Current issue

The 1996 farm bill capped the loan rate at 85 percent of the five-year moving average price for the commodity, but not more than 1995 levels. The 1990 farm bill gave the Secretary of Agriculture discretion to reduce the loan rate from the five-year average, depending on market conditions and budget costs. That bill also required that supply controls be imposed appropriate to those market conditions to determine the size of the crops produced and the cost to the government. Uncapping loan rates would raise them (by 22 percent for wheat, 15 percent for corn) to an average price level that would be unusually high at present, because it would include the historic record high price period of 1995 and 1996. Farm interests have not suggested reimposing supply controls, which is unpopular with farmers.

For example, a wheat farmer with 100,000 bushels in 1998 faced a capped loan rate of \$2.58/bushel, an average price of \$2.65, but a low price of \$2.35. He received \$23,000 (100,000 times the 23 cent gap between the low price and the loan rate) by asking USDA for a "loan deficiency payment" when the low price prevailed. (A loan deficiency payment is a common variation of a marketing loan. Foregoing entirely a USDA crop loan, the farmer gets a cash payment from USDA for the difference between the loan rate and the prevailing market price.)

The farmer then held onto the crop for 10 weeks and sold it at $2.70 and received $270,000. The marketing loan boosted the farmer's 1998 income by 9 percent under the current loan rate regime ($23,000 divided by $270,000). If the wheat loan rate had been uncapped, the USDA loan deficiency payment would have been $81,000 (100,000 times the 81 cent gap between the low price and the uncapped loan rate of $3.16 for 1998), a boost of 30 percent to the farmer's income.

Costs

USDA to-date has paid about $1.6 billion in marketing loan gains on the 1998 crop for all major commodities. Probably the costs for this crop under current loan rates will total about $2 billion this year. Uncapping loan rates for one year only on the 1998 crop, as Sens. Daschle and Harkin proposed, would have cost an additional $5 billion in FY 1999. The cost for uncapping on the 1999 crop only, with outlays largely in FY 2000, probably would be about $4 billion according to current price projections.

Policy significance

Federal attempts in the 1960s and 1980s to protect farmers from market cycles demonstrated that USDA price-support loan rates that are within about 25 percent of commodity market prices distort markets by:

- setting an effective floor on market prices for producers;
- stimulating US production;
- increasing taxpayer costs;
- leading to production controls, reduced exports and greater foreign production.

Loan rates that are low relative to market prices avoid these distortions, but can provide an income safety net in case of a price collapse. An NEC interagency process concluded in 1994 that raising loan rates slightly was dubious policy because of its market effects even when it would cost much less than under current price conditions.

Budgetary costs and policy problems could be reduced when raising marketing loan rates by targeting the payments to those producers in greatest need. For example, this could be done by excluding high-income farmers and limiting the higher loan rate to each producer's first few thousand bushels of grain.

FOIA Number: Kagan opd14

Clinton Presidential Records Automated Records Management System [EMAIL]

This is not a presidential record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

Hex Dump file is not in a recognizable format, has been incorrectly decoded or is damaged.

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Attachment Number: [ATTACH.D13]MAIL487385432.326

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:30-NOV-1998 18:38:30.00

SUBJECT: testimony

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

CC: Holly L. Gwin (CN=Holly L. Gwin/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN

CC: Betty J. Fountain (CN=Betty J. Fountain/OU=OSTP/O=EOP @ EOP [OSTP])
READ:UNKNOWN

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

Arthur Bienenstock (CN=Arthur Bienenstock/OU=OSTP/O=EOP [OSTP])
READ:UNKNOWN

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

TEXT:
Elena: I spoke with HV about his testimony and the issues we discussed. He said he had already made a number of changes, deciding to deal with a number of issues in the Q/A. He will send along a fresh draft. He may give you a call tomorrow to discuss the hearing. Many thanks. Neal

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:30-NOV-1998 11:18:24.00

SUBJECT: q&as for your review

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

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QUESTIONS AND ANSWERS
November 30, 1998

Q: Is it true that the President is planning to include in his budget the Jeffords-Kennedy proposal to allow Medicaid for people with disabilities?

A: The President has not made any decisions about his upcoming budget. He is currently reviewing a range of policies. However, he does believe it is extremely important to find ways to help people with disabilities access the health care coverage they need to return to work. That is why he endorsed the Jeffords-Kennedy proposal earlier this year. Having said this, despite his support for initiatives, such as the Jeffords-Kennedy bill, he has not made any final decisions about any budget provisions.

Background: The President endorsed the Jeffords-Kennedy legislation at an event at the White House commemorating the anniversary of the Americans with Disabilities Act on July 29th. The President and his senior advisors also pushed hard for Congress to pass this proposal in the budget negotiations this fall.

Q: Why are you issuing a new directive that advises hospitals they will be liable to the anti-dumpling statue if they do not provide emergency medical care to patients who have not received pre-approval?

A: This directive was issued in response to complaints that the HHS Inspector General has received from patients in managed care plans that they have been improperly denied emergency care coverage. The Department has also received inquiries from providers about the applicability of the anti-dumping statue in these types of situations.

Today, we issued an alert that the anti-dumping statute does, in fact, apply to hospitals and physicians who are participating in the Medicare program. This Administration, led the President and the Vice President, has consistently worked to ensure that basic patient rights, such as access to emergency room care when and where the need arises, be applied to all health plans. This initiative is one more example of how this Administration is doing all it can to provide these protections through executive action. However, these protections cannot be assured by all health plans unless Congress passes a strong enforceable patients' bill of rights.

Q: Do you have any comment on the Labor Department's amicus brief dealing with the ability of health plan enrollees to sue their HMO for wrongful actions?

A: Today's amicus, filed by the Department of Labor in consultation with the Justice Department, underscores the Administration's strong belief that the Employment Rights Income Security Act (ERISA) does not preempt state insurance laws which provide patients with the ability to seek compensation through the courts when a plan's actions cause the patient harm or death. We are aware and are supportive of this amicus brief.

This brief effectively reverses a position the Labor Department took in the Pilot Life case in 1987. It is consistent with the longstanding Administration policy that patients who have been maimed or killed as a consequence of wrongful plan actions should have access to adequate remedies.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:30-NOV-1998 14:17:35.00

SUBJECT:

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

TEXT:
Please call christa x6-5165 before 2:30pm message mtg.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:30-NOV-1998 22:36:50.00

SUBJECT: Q and A for tomorrow

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

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

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

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

TEXT:
Here is a draft Q and A for tomorrow. We will add to it information that explains NIH's activities.

Thanks,

Todd

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

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D65]MAIL44998643Z.326 to ASCII,
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DRAFT
Q & A
World AIDS Day 1998

Q: **How many orphans are there now?**

A: Globally, USAID estimates that there are approximately 20 million AIDS orphans now. That number will grow to about 25 million by the year 2000 and 41 million by 2010.

In the United States, we have about 70,000 to 80,000 children that have been orphaned by AIDS so far. That may grow to as many as 125,000 by the year 2000.

Q: **Some community groups have critized the Administration's progress on international AIDS efforts. How do you respond?**

A: The Administration has been at the forefront of the international response to this epidemic. In fact, the United States has led the international response to this global pandemic. Since 1986, the U.S. Government, through USAID, has expended nearly $1 billion dollars for the prevention and mitigation of this epidemic in the developing world. USAID's HIV/AIDS budget of $125 million for this year exceeds all other bilateral donors. We also provide 25 percent of annual budget of United Nations Joint Program on HIV/AIDS, UNAIDS.

Q: **What about the "report card" issued by AIDS Action Council that gives the U. S. Government an "F" on its international AIDS response?**

A: Our understanding is that the criticism was not of this Administration in particular, but reflects their concern that not enough is being done. The executive director of AIDS Action issued a statement today that said, in part, "With today's initiative, the President adds leadership on the global pandemic to the leadership he has demonstrated on AIDS research and care issues. We hope that today's action will encourage all Americans concerned about AIDS to do more in fighting the epidemic worldwide."

There is certainly more that needs to be done, and part of why we are here today focusing on this issue is to broaden awareness of the depth of the problem and gather support for increasing the response from government, private organizations, and citizens.

Q: **This problem of AIDS orphans is not new. What has the US government been doing before this to address the problem?**

A: The U.S. government, primarily through USAID, has been working on the problem of children orphaned by AIDS since 1989. It's Children and Orphans Fund, which USAID administers, has been supporting programs in some of the hardest hit nations (Uganda, Malawi, and Zambia). The new resources announced today will help us build on those efforts and expand into other countries that are struggling with this issue.

Q: What will USAID do with this funding?

A: USAID's primary response will be to help support indigenous community-based groups that are struggling to meet the needs of both AIDS orphans and the families or foster families that take them in. USAID, in conjunction with the NIH and the CDC, is also working to support research that will help reduce the spread of the epidemic so that there will be fewer children orphaned by AIDS. These will include new behavioural approaches, prevention technologies like topical microbicides, and treatments that reduce mother-to-child transmission. The needs of the impacted communities are widely varied, so the response will depend largely on local needs.

Q: Are you going to be using this funding to build more orphanages?

A: We believe the best response is community-based, helping families and other loved ones to care for the needs of these children. The numbers that we're talking about--40 million orphans by 2010--are so large that orphanages are simply not going to be adequate. Also, because of economic pressures in many of the countries struggling with this issue, some families might feel compelled to send their children to an orphanage rather than trying to care for them. Our best response is to support the community response.

Q: What's the progress on the President's AIDS vaccine initiative?

A: Last year, the President issued a challenge to make the development of an AIDS vaccine a national and international priority. Since that time, there has been a lot of coordination work with other developed nations on vaccine research efforts. The NIH has started construction on a new vaccine research facility on its campus that will be home to much of our intramural research. As was announced today, the NIH is also significantly increasing its financial investment in vaccine research.

There has been progress, but the work will undoubtedly be slow and painstaking.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Dan Marcus (CN=Dan Marcus/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:30-NOV-1998 17:06:58.00

SUBJECT: Escalante lawsuit

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

TEXT:
While the District Court has stayed discovery against us pending a decision on our motion to dismiss, it has ordered us to comply with the "initial disclosure" requirements of Rule 26(a), which means, inter alia, that Justice has to identify White House officials who are likely to have discoverable info on disputed factual issues. (Of course, privilege claims on the underlying testimony and documents will be preserved.) We plan to respond by identifying White House officials who participated significantly in the Escalante decision. Since neither Rob nor I was around at the time, I would like 5 minutes of your time to review a proposed list. We need to do this by Weds. Please give me a call at 67448.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:30-NOV-1998 16:46:54.00

SUBJECT: Phthalates

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

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

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

TEXT:
fyi--how does this play into our own CPS--let me know when your meeting is tomorrow but what I'd really like is a readout on it
---------------------- Forwarded by Maria Echaveste/WHO/EOP on 11/30/98 04:44 PM ---------------------------

LESLIE
BERNSTEIN
11/30/98 03:16:24 PM

Record Type: Record

To: Maria Echaveste/WHO/EOP
cc:
Subject: Phthalates

I don't know if I told you, but I've been receiving updates from ENDS (a European environmental policy journal) on the EU's actions on this issue. It's probably easiest if I just email this to you. If your interest (or that of Europe's...) has waned, let me know and I'll cease and desist.

Here's today's update:

EU phthalates ban back on the agenda
ENDS Daily - 30/11/98

The potential for children to be harmed by phthalate softeners used in PVC toys remains a cause for concern, an EU scientific committee said on Friday. The opinion is expected to lead to renewed pressure on the European Commission to propose an emergency ban on the use of two phthalates in PVC toys.

The EU committee on toxicity, ecotoxicity and the environment gave its first opinion on phthalate migration from toys to children's saliva in April (ENDS Daily 29 April). EU consumer protection commissioner Emma Bonino then pushed unsuccessfully for the EU to institute an emergency ban on phthalates (ENDS Daily 12 June). She failed to achieve the backing of other commissioners by just one vote, Commission sources now say.

The committee's revised opinion will strengthen Ms Bonino's hand if she proposes emergency action once more, according to sources. "The review is definitely showing that this stuff is not safe," one told ENDS Daily.

Requested as an update on new evidence, the committee's opinion is not radically different from its earlier one. However, it continues to suggest that children could ingest quantities of two phthalates above the main safety threshold of one-hundredth of the "no observed adverse effects level" or NOAEL.

For DINP - the main phthalate used in PVC toys - the committee has revised its assessment to give a greater margin of safety - 75 compared with just 8.8 in its April opinion. The finding "still raises some concern" since it remains below the threshold of 100, the committee stresses.

The committee has revised its opinion the other way for another phthalate, DEHP. Following publication of a study suggesting that the substance can cause testicular cancer in mice and rats, the committee assesses the margin of safety for DEHP at 19, compared with 67 in April. Margins of safety for another four phthalates - BBP, DNOP, DIDP and DBP, were between 380 and 26,000, and therefore not a cause for concern, the committee added.

Reacting to the committee's opinion today, Greenpeace called on Emma Bonino to "urgently propose an EU-wide emergency ban on soft PVC toys for children under three". An increasing number of national governments were taking action, Greenpeace said, as well as toy manufacturers and retailers. Ms Bonino would show that she was "politically ruined" if she did not take action now.

Toy industries of Europe, however, suggested that the committee's opinion revealed "nothing new," and that there was therefore no more evidence for banning phthalates now than there had been in the spring. The association also stressed that DEHP was almost never used to soften PVC toys.

Contacts: European Commission (http://europa.eu.int/comm), tel: +32 2 295 1111; Greenpeace (http://www.greenpeace.org), tel: +31 20 523 6222; Toy Industries of Europe, tel: +32 2 732 7040. References: The committee's opinion is to be posted on the web site of the Commission's consumer protection directorate, DGXXIV (http://europa.eu.int/comm/dg24/index.html).

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:30-NOV-1998 10:10:13.00

SUBJECT: TPS

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

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

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

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

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

TEXT:
The State Department is sending over draft q&a on TPS for Honduras and Nicaragua by cob today. They are also providing updated summaries outlining the differences on the ground among the six countries (including the Dominican Republic and Haiti).

At our meeting with DOJ and State last Wednesday, we put forward the idea of directing a presumption of extreme hardship for purposes of suspension of deportation under NACARA for those from El Salvador and Guatemala. This would be a way of achieving parity for Salvadorans and Guatemalans covered by NACARA without having to wait for legislation (though we would still need legislation to permit the small class of Hondurans to be covered by NACARA). This would also be a way of recognizing and responding to the destruction done by Mitch in El Salvador and Guatemala, while maintaining the differences between these two countries and Nicaragua and Honduras. DOJ and INS resisted such a presumption, primarily b/c it is inconsistent with past practice to have coun try-specific presumptions (though they concede that it would be legally permissible). They would prefer to give guidance to their adjudicators that outlines the destruction in the two countries and that advises the adjudicators to take these conditions into account when making their decisions re: suspension. We have asked DOJ/INS for more specifics re: why they oppose a presumption and how their idea would operate.

Scott and I have scheduled a follow-up meeting with DOJ and State for tomorrow morning at 10am.

julie