NLWJC - KAGAN

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[01/29/1999]

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Ron Klain to Elena Kagan re: Invitation (1 page)	01/29/1999	Personal Misfile

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

FOLDER TITLE:
[01/29/1999]

2009-1006-F
bm88

RESTRICTION CODES

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

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

C. Closed in accordance with restrictions contained in donor's deed of gift.
PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).
RR. Document will be reviewed upon request.

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

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: David L. Stevenson (CN=David L. Stevenson/OU=OSTP/O=EOP [OSTP])

CREATION DATE/TIME:29-JAN-1999 08:57:49.00

SUBJECT: articles on social promotion

TO: mike_smith (mike_smith @ ed.gov [UNKNOWN])
READ:UNKNOWN

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

TO: Ann_O'leary (Ann_O'leary @ ed.gov [UNKNOWN])
READ:UNKNOWN

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

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

TEXT:
I have been talking with Karl Alexander of Johns Hopkins University who has conducted research on social promotion/retention in Baltimore. He was quoted in the recent NYT article on social promotion. Attached is a piece he has written on social promotion for a point/counterpoint for Scripps-Howard (Lorrie Sheppard is the counterpoint). It is a helpful piece. He also is writing for the Newshour Online in response to Newshour segments about social promotion. He is interested in writing an op-ed on social promotion.

David

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

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D49]MAIL43238213G.036 to ASCII,
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Karl Alexander, Professor Johns Hopkins University

Scripps-Howard Point/Counterpoint

President Clinton's call to end social promotion in his State of the Union address has made retention policy a front burner-issue. This is a healthy development in my view, but only if it encourages serious discussion of how best to meet the needs of children who are not achieving at acceptable levels. That requires getting beyond the stale "to retain or not" debate-- it's too confining.

With colleagues Doris Entwisle and Susan Dauber, in 1994 I published a book on the effects of grade retention ("On the Success of Failure," Cambridge University Press) that monitors the school progress of some 800 Baltimore children from first grade thorough middle school. More than 40% of the children we studied were held back during that time, many twice. Such numbers signal a problem of immense proportions, for the young people involved, who lose precious time, and for the schools, which must bear the cost of educating repeaters for an extra year or two. But what of the impact of retention, is it helpful, as intended, or harmful, as critics of the practice claim? We looked, carefully, at school performance (achievement test scores and marks) and attitudes (toward self and school) after children were held back in relation to the same criteria from before they were held back and in relation to promoted children's school performance and attitudes over the same time frame (some of these comparisons spanned eight years). Contrary to the critics, retention was not positively harmful; more than that, it helped. Children held back in the early elementary years (our focus) made up ground academically and suffered no emotional scars. These youngsters-- who were far behind academically before being retained– did not catch up altogether, but they were better off than before. On that basis, we deemed retention a qualified success.

That conclusion seems to have cast us in the role of "friends of retention," but that misreads our position. Retention "works" only in a narrow sense-- when the later situation of repeaters is compared against other poor performing students who were promoted (or, equivalently, against all promoted children, using statistical means to adjust for achievement differences that predate retention). This approach attempts to compare like against like. It is the frame of reference used in all evaluations of grade retention, and by this standard our evidence is sound. But if we believe that all children can, and should, realize success at school, then simply seeing repeaters keep up with other low achievers is small comfort.

At this point I part company with the critics. Many seem so preoccupied with the practice that they lose sight of why these children are candidates for retention in the first place. Most are far behind academically, and social promotion-- simply moving them ahead unprepared for what awaits them– won't fix anything. The time bought by repeating a grade can help, but the decision to promote or not should be made case by case, based on firm understanding of a child's difficulties and needs. For most poor performing children under most circumstances, this should be the option of last choice, not first choice. For them, we need a "third way," one that shores up their skills *before* problems mount. Partial promotion, summer programs, ungraded classes, looping, cooperative learning, and supplemental services (e.g, tutoring) are promising avenues, but social promotion has no place on the list.

I applaud President Clinton's call for an end to social promotion if it is a mandate to find this "third way." My fear is that many instead will take it simply as license to hold back more children.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elizabeth R. Newman (CN=Elizabeth R. Newman/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:29-JAN-1999 09:43:10.00

SUBJECT: guidance today

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

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

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

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

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

TEXT:
can we get guidance from you all today on:

teacher quality
mayors handgun crackdown
tobacco -

thanks - we need guidance by 11:00am.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Shirley S. Sagawa (CN=Shirley S. Sagawa/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:29-JAN-1999 09:52:17.00

SUBJECT: AmeriCorps as census taker

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

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

TEXT:
Wanted to make sure you had seen the pieces in the Times and Post regarding the use of AmeriCorps members as census takers.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:29-JAN-1999 10:10:24.00

SUBJECT: TANF Rule Materials

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

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

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

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

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

TEXT:
For our 4 p.m. meeting on the TANF rule, here are:
1) Summary prepared by HHS related to how states are doing on work and other key provisions of the law, with a summary of work efforts in the states Bruce specifically asked about.

2) Document which includes a chart of the 5 key issues we want to discuss, followed by 1-2 page summaries on these issues.

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

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STATE TANF SUCCESS

OVERVIEW: A wide variety of evidence demonstrates that the nation's welfare system has dramatically changed. The message has changed. States have adopted work-first as their primary approach for moving families from welfare to work. Welfare-to-work programs have expanded. Employment, participation levels, and sanctions are up. Many States have implemented more rigorous time limits. States are making extensive use of diversion programs, expanding supports for working families, and focusing more attention on the needs of the hard-to-serve. Decision-making and program responsibilities continue to devolve.

The authors of the Implementation of the Personal Responsibility Act of 1996 [Dick Nathan and Tom Gais] summarize this dramatic change, as follows:

> The central theme of this Overview Report is that a lot is happening now and that there are surprises in the implementation of the Personal Responsibility Act. As researchers and participant-observers in this field for a long time, we have never seen, or expected to see, a period of so much and such pervasive institutional change in social programs. ... These changes have occurred in large part because strong signals have been sent by governors and state legislators that a work-based approach to welfare reform is no longer just one Federal priority among many but is now a central objective within each state...

While there are differences among States, counties, and communities about the extent of change, all States have implemented work-oriented changes.

EVIDENCE OF CHANGE

1) States were successful in meeting the overall TANF participation rates for 1997 (and the vast majority meets the rates without any waiver adjustments). The national average participation rate for 1997 was 27.3 percent and percent of welfare recipients engaged in work has tripled since 1992.

In addition, several States that were not subject to participation requirements in FY 1997 have reported significant participation rates to us. For example, Illinois is showing that 40% of recipients are employed, and employment rates in Cook County are now 34%. In Minnesota, 44% of the caseload are involved in paid employment and another 22% in job search.

2) Caseloads (number of recipients) are down 44 percent since January 1993 and based on the latest data, every state is now showing a caseload decline. Caseloads in Florida went down 65%; in Texas, 56%; in Georgia, 48%; in Ohio, 42%; in Wyoming, 84%; and in Wisconsin, 77%. States with relatively low declines -- below 20% -- include: Alaska (20%), Rhode Island (11%), Hawaii (16%), and New Mexico (18%).

3) For adult recipients, during the last quarter of FY 1997, employment levels increased by about 35 percent. Compared to October 1996 to June 1997, when 14 percent of adult recipients were employed for the 39 reporting states, in the July-September period,18 percent were employed.

The average monthly earnings of those employed increased from about $506 to $593, an increase of about 17 percent.

4) Work participation was mandatory for three of every five adult recipients during the last quarter of FY 1997. States reported that a total of 16 percent of participants were exempt under federal statutory provisions: 7% were exempt from work participation because they were single custodial parents with a child under 12 months of age, 3% were exempt because of a sanction or participation in a Tribal Work Program, and 6% were teen parents who were required to participate in education. In addition, states exempted about 20 percent because of good cause due to disability or in poor health.

5) Employment rates of individuals who were on welfare in the prior year increased 30% from 1996 to 1997.

6) New evaluations show significant successes in moving recipients to work :

- LA's evaluation showed a 33% increase in employment levels and a 46% increase in earnings (among participants, compared to a control group) after 6 months in the program. This program served a population that was largely minority.
- Portland's program achieved a 17% decline in welfare and 35% gain in earnings, with positive outcomes for both job-ready and harder-to-serve participants. It also showed gains in job quality (i.e., a 13-percentage point increase in full-time jobs and 10-percentage point increase in health benefits).
- Minnesota's MFIP program showed a 40% increase in employment and a 17% decrease in poverty among single parents who were long-term recipients living in an urban environment.
- Florida's Family Transition Program increased employment by 7.5% and increased average earnings 15.7%, over its first two years.

6) State claims of waiver inconsistency did not substantially affect the States' penalty liability for failure to meet work participation rates. A significant majority of States made the overall rates without any waiver adjustments, and only a few were helped on the two-parent rates. For 5 of the 10 States claiming waiver inconsistencies (MA, MO, NH, SC, and VA), the claimed adjustments had no affect on their penalty liability; and for 3 States (OR, TN, UT), the claims affected only the State's two-parent liability. For Texas, waiver inconsistencies affected only the penalty for overall rate. VT claims exemption from the participation rates, but meets the overall rate. A number of States with waivers claimed no adjustments based on waiver inconsistencies (CA, CT, IA, MI, NE, and WA), and a couple identified adjustments that worked to their detriment.

8) There is little evidence that States are setting up separate State programs for the purpose of avoiding work requirements or diverting the Federal child support collections.

- Only two States that were subject to participation rates for the last quarter of FY97 avoided them by setting up separate State programs—Florida and Maryland. Both have strong work policies for two-parent families. Also, Florida met the old JOBS UP rates

(which indicates an excellent history of moving 2-parent families into work). Maryland's UP rate for JOBS was 38.5% (against the 50% standard in effect under JOBS). Georgia avoided the two-parent requirements by funding its two-parent cases entirely with State monies. South Dakota did not have any 2-parent cases (outside Tribal Work programs) during the quarter.

- OCSE is reporting no evidence that States have developed or are planning State-only child support programs that would divert the Federal share of collections. It reached this conclusion based on: (a) this year's audits of programs by the OCSE auditors; (b) the Lewin Group study, which surveyed IV-D directors and State budget staff; and (c) internal analysis of collections information.

9) In the fourth quarter of FY 1997, about 23 percent of TANF families had no adult recipients. The number and percentage of child-only cases have been steadily rising since 1988, but the rate of increase slowed slightly between FY 1996 and October-June 1997. Thus, our data suggest that the growth in child-only cases may be slowing. Also, they provide no evidence of a shift in State policies or practice with respect to child-only cases.

10) States have not shifted significant shares of their TANF caseloads into separate State programs (SSP's). According to the third-quarter FY98 fiscal reports, SSP's represent less than 3 percent of State MOE expenditures and are reported by only 14 States. They represent more than 20% of the expenditures only in Colorado, Hawaii, Maine, and West Virginia.

11) We expect that nearly all States will participate in the High Performance Bonus and thus will compete for awards based on job placements and recipients' success in work.

12) In FY 97, States made significant investments in child care services, serving an average of 1.25 million children a month (up 25 percent over 1996). All States made their MOE and matching requirements for child care, and States spent 99% of the Federal funds. The total Federal and State dollars spent increased 35% between 1996 and 1997, rising to $4.2 billion in 1997.

13) Most States are moving forward on implementing the Family Violence Option or developing other specialized strategies to serve victims of domestic violence. Early indications are that States are taking a cautious approach in screening and granting waivers. We have limited data that suggest that the number of victims identified and the number of waivers granted is very modest to date.

14) There have been substantial decreases in sexual activity among high school students (11% between 1991 and 1997) and in teen births (12 percent between 1991 and 1996).

HIGHLIGHTS OF WORK EFFORTS IN KEY STATES

California: On January 1, embarked on CalWORKS, which creates a strong framework for implementation of work requirements throughout the State (including job acceptance requirements, up-front job search, and county performance expectations). The State has also instituted generous earnings disregards and achieved significant caseload reductions. The LA evaluation showed large earnings and employment gains for a highly urban, largely minority population (i.e., 33% and 46%, respectively). State shows high participation in unsubsidized employment.

District of Columbia: Recently took major step forward in moving its welfare-to-work agenda; effective December 1, entered performance-based contracts with third-party providers to provide welfare-to-work services for recipients.

Florida: WAGES program has shown very strong results along a variety of indicators, including caseload reductions, employment entries, and reductions in time on assistance. Claims best results of the big-eight States. Also, FTP evaluation shows significant gains in employment and earnings.

Hawaii: Working in most difficult economic environment, has federalized assistance for two-parent families, instituted stronger work requirements (32 hours for all families), and adopted a full-family sanction (to be effective 7/99).

Illinois: Has instituted strong requirements, especially for those with children over 13, and strong financial incentives for those finding employment. Impressive record of job retention, case closures due to employment (for both State and Cook County), and employment rates (for both State and Cook County).

Minnesota: High employment levels (30%); strong support for working families; 40% gains in employment and earnings and 17% reduction in poverty in demonstration for single-parent, urban participants

New Mexico: Had achieved significant caseload reduction (27%), but progress has been slowed by internal political and legal disputes.

New York: Has achieved a significant caseload reduction (25%) and provides strong support for working families through disregard policies.

Ohio: Has achieved a significant caseload reduction (26%), implemented strong sanction policies and strong work supports (including significant, time-limited earnings disregards), and an employer tax credit to expand job opportunities. Participation and work levels are high statewide and in Cuyahoga.

Pennsylvania: Has achieved significant caseload reduction (37% decrease in recipients since 8/96) and implemented a very tough approach to 24-month work requirement. State rules are raising concerns that State policies are too tough, especially in Philadelphia.

Rhode Island: Has only recently come under data collection and work penalty provisions. Work focus evident in requirement for participation within 45 days, progressive sanction policy, and enhanced disregards.

Texas: Began to focus more intensively on work about one year ago, too late to be evident in participation rates. State data show significant sanction activity. Evaluation shows high level of employment among individuals diverted from the rolls or leaving welfare for work and off of TANF for 6 months (as well as some evidence of good job quality).

Vermont: Has achieved significant caseload reduction (32%). Supports work through earnings disregards and job acceptance requirements.

Washington: Has achieved significant caseload reduction (27%). Supports work through enhanced disregards and progressive sanctions. 37 percent of the TANF caseload in King County employed.

West Virginia: Has experienced very significant caseload reduction (58% between 8/96 and 6/98). WV Works expanded from 9 counties to statewide in January 1998. Governor is leading effort to create jobs (9,696 as of November 1998).

Proposed Change from NPRM	
I. Waivers	
A. No longer denies penalty relief and penalty reduction to states that continue waivers inconsistent with TANF and no longer requires state to abandon waiver program as part of corrective compliance	
B. Expands the definition of inconsistent waiver that can be continued under TANF to include the entire range of work rules (exemptions, activities, hours, and who counts in the numerator and denominator of the work rate) or time limit provisions that existed in a state under the waiver if they have waived one or more technical provisions related to work or time limits under prior law	
II. Child Only	
A. Deletes the provisions requiring states to report annually on cases excluded from work rate and time limit calculations	
B Allows the Secretary to add cases back into a calculation if found to have been excluded to avoid penalties	
III. Domestic Violence	
A. Allow waivers for as long as necessary, while requiring 6-month redeterminations	
B. Allows the clock to stop when a family has a waiver (rather than NPRM provision which allowed exemption form time limit if individual reached 60th month and was unable to work)	
IV. Separate State Programs	
A. Eliminates proposed link between state decision to establish SSP and eligibility for penalty relief, but maintains plan to monitor state actions through data reporting and other procedures.	
B. Maintains participant-level data reporting in order to qualify for high performance bonus and caseload reduction credit, but not for penalty relief, with reduced number of data elements.	
C. Limits case-level data and aggregate data reporting to SSPs that are "welfare-like", i.e. which provide ongoing payments to the family designed to meet	

Proposed Change from NPRM	
basic needs of the recipients.	
V. Definition of Assistance	
A. Continues to include in the definition of assistance spending that provides explicit or implicit income support, including child care, transportation, and related work supports. Expressed policy support for excluding them, but indicates they have no legal basis to do so. Continues to include workfare payments and some wage subsidies in assistance, but clarifies that certain payments to employers might be excluded (e.g. under performance based contracts).	
B. Removes time limits on one-time short-term assistance; clarifies that it can be used to prevent a family going on, or returning to, assistance; and makes general distinction that assistance is to meet ongoing or recurring needs.	

Waivers

Background

States that had waivers before TANF may continue to operate under their waivers to the extent they are inconsistent with TANF. The statute also encourages continuation of state waivers. HHS has no specific authority to regulate waivers; rather, their authority hinges on their authority to regulate three penalty provisions: work requirements, individual sanctions for failure to work, and exceeding time limit.

Thirty-five states continue to have waivers in effect, of which 5 will expire before the final rule take effect in October 1999, and an additional 5 will expire in FY 2000. HHS estimates that if every eligible state claimed a waiver inconsistency, this would cover about 32% of the nationwide caseload. However, not every state will -- in fact, for the FY 97 work participation rates, of the 12 states who claimed a waiver inconsistency, 10 states met the all family rate without the waiver (CT, IN, MA, MO, NH, OR, SC, SD, TN, and VA) and only 2 states needed the waiver to meet the all family rate (MT, TX). Eight states only met the two-parent rate with the waiver (IN, MA, MT, OR, TN, TX, UT, VA). While the participation targets will increase over time, states will also benefit more from the caseload reduction credit, so it is not necessarily the case that more states will claim inconsistencies over time.

NPRM

1) Waivers states: lost reasonable cause for work participation or time limit penalties, must consider modifying waiver policy as part of corrective action, and lost eligibility for certain penalty reductions.

2) Recognized waiver inconsistencies related to specific waiver provisions for work activities and hours, but not exemptions (i.e. who is in the denominator), and individuals participating in a waiver evaluation.

3) HHS will continue to publish work participation rates and time-limit exception rates achieved under both the waivers and regular TANF rules.

4) Governor must certify waiver inconsistencies & provide additional information about waivers.

5) Time limit waivers were limited to those which resulted in closing a case or terminating benefits (did not recognize inconsistencies for time limits which triggered work requirements).

HHS received strong state, congressional, and other organization opposition to waiver provisions on the grounds that the NPRM violated the Congressional intent to allow and encourage states to continue waivers. Shaw emphasized that most states are not using waivers to evade work requirements and recommends that "we let the waivers run their course", noting that if states do

use their waivers to avoid the work requirements or time limits, they are likely to experience a serious jolt when the waiver ends and they may find themselves a magnet for recipients from other states with more aggressive reforms.

Proposed Final Rule

1) No longer denies penalty relief and penalty reduction to states that continue waivers inconsistent with TANF, and no longer states to abandon their waivers as part of corrective compliance. NPRM approach was based on waiver states having an unfair advantage over other states, but in light of the comments, HHS is concerned they don't have defensible legal basis for the approach.

2) Clarifies and somewhat expands definition of inconsistent waiver that can be continued under TANF. Removes reliance on the purpose of the waiver and instead include the entire range of work rules (exemptions, activities, hours, and who counts in the numerator and denominator of the work rate) or time limit provisions that existed in a state under the waiver if they have waived one or more technical provisions related to work or time limits under prior law. Time limit waivers are limited to those which reduce or terminate assistance -- waivers which require work after a certain period of time do not count. States may also claim waiver inconsistencies related to the sanctions on individuals who fail to work. Final rule also clarifies that states can't expand waivers beyond approved geographic limits or population groups and cannot stop and resume a waiver.

3) Maintains intent to publish work participation rates under waivers and regular rules, but not time limits (data is not available to compute these).

4) Governor must, by July 1, 1999, certify continuation of work and time limit waivers, which inconsistencies it is claiming, and describe alternative work provisions.

1/29/99

Child-Only Cases

Background

Child-only cases have risen as a percentage of the total welfare caseload from 9.6% in 1988 to 23% in 1997. Most child-only cases fall into one of four categories:

- no parent in household
- sanctioned parent
- SSI recipient parent
- undocumented alien parent.

Though less than half (40%) of all child-only cases have no parent in the household, no-parent households have witnessed the largest percentage increase over the last decade of all child-only categories. With states strengthening work requirements in their TANF programs, we may see increases in SSI recipient and sanctioned parent "child-only" households as more recent data become available. In 1997, of all cases with a parent in the household some 38% and 15%, respectively, consisted of SSI recipient and sanctioned parent households. During the period from FY 1996 to the last quarter of FY1997, decline in the number of child-only cases has generally kept pace with the overall welfare caseload decline.

There are three key ways in which child-only TANF cases are treated different than other cases under current law:

- they are not subject to work requirements;
- they are not subject to the Federal 5-year time limit;
- they are excluded in calculating (e.g., the denominator) a State's annual work participation rate.

Given these differences, there is added concern that TANF parents may increasingly relinquish guardianship of children to other caretaker relatives.

NPRM

While the proposed rule allowed states to develop their own definition of "family," it included also the proviso that states could not create definitions that excluded adults from cases -- thereby creating child-only cases -- solely for the purpose of avoiding enforcement of Federal requirements and penalties for failure to meet annual work participation rates. To monitor this restriction, HHS proposed that states report annually on the number of cases excluded from penalty calculations, and the reasons for each exclusion. In addition, the Secretary would have authority to add cases back into the calculation if found to have been excluded for the purpose of avoiding penalties.

Final Rule
HHS has deleted the provisions requiring states to report annually on cases excluded from work rate and time limit calculations, and allowing the Secretary to add cases back into a calculation if found to have been excluded to avoid penalties. Instead, HHS proposes to use the regular TANF data collection system to evaluate the nature of child-only cases and to monitor changes.

Domestic Violence

Background
Many studies have identified a high prevalence of domestic violence amongst welfare recipients. PRWORA contains language allowing states to elect the Family Violence Option (FVO) within their TANF state plans. This option provides for identification and screening of domestic violence victims, referral to services, and waivers of program requirements for good cause. Though a number of states have elected the FVO, there is little data on how many domestic violence victims have received "good cause" waivers. There were lengthy discussions during the NPRM process over the FVO issue, and over the Murray/Wellstone amendment which, if passed, would have affected the treatment of domestic violence victims under TANF.

NPRM
Under the NPRM, states electing the FVO could be eligible for "reasonable cause" penalty relief for failure to meet the work participation rates or for exceeding the limit on exceptions to the five-year limit if caused by program waivers granted under this provision. To be considered for a "reasonable cause" exception, a "good cause domestic violence waiver" would need to incorporate three components: (1) individualized responses and service strategies, consistent with the needs of the individual victims; (2) waivers of program requirements that were temporary in nature (not to exceed 6 months); and (3) in lieu of program requirements, alternative services for victims, consistent with the individualized safety and service plans.

In addition, to be considered in determining reasonable cause for exceeding the time-limit exceptions, such waivers had to be in effect after an individual had received assistance for 60 months, and the individual needed to be temporarily unable to work.

Comments
HHS received a number of comments on the FVO provisions in the NPRM. While generally satisfied with the framework presented, most commenters raised certain objections:

- a service plan is inappropriate and could put victims at added risk (victims receiving waivers should be exempt from work requirements);
- a 6-month limit on the waiver is inappropriate, especially given that the statute says as long as necessary;
- allowing time limit waivers only for victims who have already hit the 5-year limit (hardship exemptions) and who are unable to work is inappropriate (the time limit should

stop for victims with good cause waivers).

Commenters also raised the general concern that the NPRM did not assure, or even address, the issue of confidentiality for victims.

Final Rule

The final rule makes two key changes to the NPRM provisions:

- it allows waivers for as long as necessary, while requiring 6-month redeterminations;
- it removes the link between time-limit waivers and ability to work, and allows the clock to stop when a family has a waiver.

Separate State Programs

Background

Law allows states to meet MOE requirement by spending their own funds on: cash assistance (including child support collections), child care, certain educational activities, associated administrative costs, and anything else reasonably calculated to accomplish purposes of the law.

State funds spent in a SSP (rather than under TANF program) are not subject to key TANF requirements including: work participation, child support, time limit, and reporting.

There is little evidence to date that states are using SSPs to avoid work and no evidence they are using SSPs to avoid child support (see attached information).

NPRM

Proposed 4 steps to prevent states from using SSPs to avoid work requirements or divert child support collections:

1. If HHS detected significant pattern of diversion to SSP that had the effect of avoiding either the work rates or diverting child support, deny reasonable cause for certain penalties as follows:

	If Avoid Work	*If Divert Child Support*
Then Lose Penalty Relief for:	Work Participation Rate	Work Participation Rate
	Time Limit	Time Limit
	Individual Work Sanction	Individual Work Sanction
	Child Care	Child Support Cooperation

2. If HHS detected significant pattern of diversion to SSP that had the effect of avoiding either the work rates or diverting child support, deny penalty reduction for making substantial progress unless state ends the diversion.

3. Deny work participation rate penalty reduction unless state proves it has not diverted cases to SSP for purpose of avoiding work requirements.

4. Require data reporting on all families in SSP in order to get: high performance bonus, caseload reduction credit, or work participation rate penalty reduction.

Widespread comments (including Shaw) universally opposed the NPRM. They objected to tone of mistrust, limits on state flexibility, chilling effect on state innovations to serve vulnerable groups and working families, punishment disproportional to offense, and argued that NPRM was contrary to statute and congressional intent. While Shaw is sympathetic to the NPRM's threat to deny penalty relief when there is a significant pattern of diverting families to SSPs in order to evade TANF goals, he questions how the Department can prove intent. In the absence of such

proof, he recommends erring on the side of state flexibility and closely monitoring state actions. He supports the need for some amount of case level data in order to monitor what states are doing and suggests collecting full case level data on some types of SSPs (such as a separate two parent program), with less detailed data on other types of programs (such as subsidies for private employment or an EIC-like program). (This is what HHS has tried to do in final rule in their distinction between "TANF-like" programs.)

Proposed Final Rule

Eliminates proposed link between state decision to establish SSP and eligibility for penalty relief (see NPRM steps #1, 2 and 3 below), but maintains plan to monitor state actions through data reporting and other procedures.

Maintains participant-level data reporting in order to qualify for high performance bonus and caseload reduction credit, but not for penalty relief, with reduced number of date elements. Limits case-level data and aggregate data reporting to SSPs that are "welfare-like", i.e. which provide ongoing payments to the family designed to meet basic needs of the recipients. Maintains quarterly financial reporting on state spending for SSPs (amount and category) and annual reporting on description of SSPs (purpose, work activities, expenditures, number served, eligibility criteria).

The Emergency TANF data reports, in effect until the final rule is effective, do not provide participant-level information on SSPs, so we do not currently have information on the number of characteristics of families served in SSPs. However, TANF financial reports provide information on how much states are spending, and on what types of programs, as shown on the chart below.

1/29/99

Information on State Spending for Separate State Programs

In FY 1997, 15 states reported MOE spending for SSPs. Four states spent more than 20% of their MOE funds in SSPs (Hawaii, Illinois, Colorado, and Iowa), 4 states spent between 10 and 20%, and the remaining 7 states spent less than 6%. (Final FY 98 financial reports are still being compiled.)

In FY 1998, 14 states reported MOE spending for SSPs. While final data is still being compiled, the most recent FY 1998 financial report (3rd quarter) show only $189 million, or 3 percent of total state MOE spending, is for SSPs. The majority of SSP spending is for cash and work based assistance for families that states have chosen to remove from TANF (two-parent families) or who are not eligible for federal TANF funding (certain immigrants). Those states who have removed two-parent families from TANF generally have similar work requirements under their SSP.

FY 98 SSP Expenditures Through 3rd Quarter FY 1998

	# of states	Total Expen-ditures	% of SSP Expen-ditures	Comments
Cash & Work Based Assistance	6	$112 M	59%	Mostly 2-parent families (FL, MD, HI), non-qualified immigrants (HI, WA, WI), pregnant women (IL, WA), state GA/EA (ME). Georgia also reports $71M SSP on 4th Q report (HHS seeking info). VA reported in error on 3rd Q--does not have SSP.
Work Activities	3	$7 M	4%	IL (reported in error on this line -- will be corrected), IA, WI (non-custodial parent program)
Child Care	4	$16 M	9%	AZ, CO, IA, WY
Admini-stra tion	3	$3 M	2%	Costs associated with operating SSPs (IL, WA, WI)

Systems	3	$0.6 M	< 1%	Costs associated with SSPs (IL, WA, WI)
Transitional Services	0	N.A.		
Other	7	$50M	26%	CO, FL, IN (Healthy Families), ME (higher ed), RI (citizenship), TN (non-qualified aliens), WA (?),
TOTAL	14	$189 M	100%	3% of total State MOE spending

Definition of Assistance

Background

The definition of assistance is one of the key policy issues in the TANF rule. It has major implications for what kinds of services states will provide to needy families, the nature and level of spending of federal TANF funds and state MOE funds, and whether these expenditures will be subject to TANF requirements including time limits, work participation, child support assignment and data reporting. The term "assistance" is used throughout the statute but is not defined.

In January 1997, HHS released guidance explaining that assistance encompassed most forms of support, but excluded (1) services that had no direct monetary value and did not involve explicit or implicit income support and (2) one-time short-term assistance. In 1998, the Child Support Incentives Act amended TANF to reflect enactment of the Access to Jobs transportation program in TEA-21 including a "rule of interpretation" stating that the provision of Access to Jobs transportation benefits (where TANF funds are used as a match) to an individual who is not otherwise receiving TANF assistance would not be considered assistance.

NPRM

Tried to clarify the 1/97 guidance by explicitly including child care and transportation in definition of assistance (see chart). In doing so, it was widely perceived to narrow the definition. NPRM also defined short-term, time-limited assistance (see chart).

A wide range of commenters asked us to narrow the definition of assistance, i.e. expand the types of benefits and services that would not count as assistance. Comments focused on three main issues: 1) the narrow definition of one-time, short-term assistance thwarts state diversion programs and does not reflect the dynamic nature of the caseload; 2) child care, transportation, and work supports should not be assistance (not subject to time limits or child support assignment); and 3) wage subsidies and workfare should not be assistance -- wage subsidies do not have direct monetary value and workfare is compensation for work (not subject to time limits or child support assignment).

NGA and APHSA proposed a narrower definition that CLASP believes is legally permissible (see chart).

Proposed Final Rule

Continues to include child care, transportation, and related work supports in definition of assistance. Expressed policy support for excluding them, but indicates they have no legal basis to do so. Continues to include workfare payments and some wage subsidies in assistance, but clarifies that certain payments to employers might be excluded (e.g. under performance based contracts). Removes time limits on one-time short-term assistance; clarifies that it can be used to prevent a family going on, or returning to, assistance; and makes general distinction that assistance is to meet ongoing or recurring needs.

1/29/99

Definition of Assistance

ı 97 Guidance	NPRM	Proposed Final	NGA/APHSA Proposal
ery form of support ›vided to families under .NF except for the lowing:	Every form of support provided to families under TANF (including child care, work subsidies, and allowances to meet living expenses) except:	Every form of support provided to families under TANF (including child care, work subsidies, and allowances to meet living expenses) except:	Every form of support provided to families under TANF except:
services that have no direct ›netary value to an .ividual family and that do : involve implicit or explicit ome support (such as ınseling, case management, ;r support and employment vices that do not involve ›sidies or other forms of ome support; and	1) services that have no direct monetary value to an individual family and that do not involve implicit or explicit income support (such as counseling, case management, peer support and employment services that do not involve subsidies or other forms of income support[1]; and	1) services that have no direct monetary value to an individual family and that do not involve implicit or explicit income support (such as counseling, case management, peer support and employment services that do not involve subsidies or other forms of income support; and	1) state earned income tax credits, child care, transportation subsidies or benefits for working families that are not directed at their basic needs.
one-time, short-term istance (e.g. automobile ›air to retain employment l avoid welfare receipt and ›liance repair to maintain ing arrangements).	2) one-time, short-term assistance (i.e., assistance paid within a 30 day period, no more than once in any 12-month period, to meet needs that do not extend	2) short-term benefits designed to deal with a specific crisis situation or episode of need and prevent a family from going on, or returning to, assistance rather	

[1] Preamble clarifies that: asistance includes child care, work subsidies, and allowances that cover living expenses for individuals in education or training such as a) payments/vouchers for direct child care services, and value of direct child care services provided under contract/similar arrangement. b) payments employers to help cover the cost of employment or OJT. Assistance excludes child care services such as information & referral or counseling, short-term/ad hoc child care.

1 97 Guidance	NPRM	Proposed Final	NGA/APHSA Proposal
	beyond a 90-day period, such as automobile repair to retain employment and avoid welfare receipt and appliance repair to maintain living arrangements.)	than to meet ongoing or recurring needs -- such as payments for automobile or appliance repair. 3) Transportation benefits provided under an Access to Jobs or Reverse Commute project, pursuant to section 404 (k) of the Act, to an individual who is not otherwise receiving assistance.	

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:29-JAN-1999 10:45:09.00

SUBJECT: Irene Bueno has accepted our offer to replace Julie Fernandes

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

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

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

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

TEXT:

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: James T. Heimbach (CN=James T. Heimbach/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:29-JAN-1999 12:11:13.00

SUBJECT: Initiatives

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

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

TEXT:
As a follow up to yesterday's meeting, I'm re-vamping our priority charts. I want to make sure that I have the correct information, so could you let me know if the following are part of the Crime Bill:

- Children Exposed to Violence Initiative
- Drug Free Prisions Initiative

Also, you mentioned grouping the Lands Legacy and the Better Bonds. Would the Livability Initiatives fit into this grouping as well?

Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:29-JAN-1999 12:11:31.00

SUBJECT: Revised Draft 11:15am, changes in bold

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

TO: Caroline R. Fredrickson (CN=Caroline R. Fredrickson/OU=WHO/O=EOP @ EOP [WHO]
READ:UNKNOWN

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

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

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

TEXT:
Revised Final

PRESIDENT WILLIAM J. CLINTON
RADIO ADDRESS ON EQUAL PAY
THE WHITE HOUSE
January 30, 1999

Good morning. Americans have always believed that people who work hard should be able to provide for themselves and their families. That is a fundamental part of America□,s basic bargain. Today, I want to talk to you about what we are doing to make sure that bargain works for all of our people, by ensuring that women and men earn equal pay for equal work.

We are living in a time of remarkable promise. Our economy is the strongest in a generation -- with nearly 18 million new jobs, the lowest unemployment in 29 years, family incomes rising by $3,500, and the greatest real wage growth in over two decades. I believe we have an opportunity -- and an obligation -- to make sure that every American can benefit from this moment of prosperity.

One of the most important ways we can meet this challenge is by putting an end to wage discrimination. When President Kennedy signed the Equal Pay Act thirty-five years ago, women were entering the workforce in ever-increasing numbers -- but their work was undervalued. At the time, for every dollar a man brought home to his family in his paycheck, a woman doing the same [work] [job] earned only 58 cents.

We have made a lot of progress since those days. Last June, the President□,s Council of Economic Advisors□, reported that the gender gap

has narrowed considerably -- in fact, we have nearly cut it in half. Today, women earn 76 cents for every dollar a man earns.

We can and should be proud of this progress -- but 76 cents on the dollar is only three quarters of the way there. Americans cannot be satisfied until we are all the way there.

One big reason why the pay gap persists -- despite women□,s gains in education and experience -- is the demeaning practice of wage discrimination in our workplaces. Too many employers still routinely undervalue -- and underpay -- work done by women. [this line comes almost verbatim from Harkin talking points]

Make no mistake: When a woman is denied equal pay, it doesn't just hurt her -- it hurts her family. Between 1995 and 1996 alone, the number of families with two working parents increased by nearly two million. And in over ten million families [from Labor], the mother is the only breadwinner.

Just think what that 24 percent wage gap means in real terms. Over the course of a working year, it means hundreds, even thousands of bags of groceries ... visits to the doctor ... rent and mortgage payments. Over the course of a working life, it can mean hundreds of thousands of dollars ... smaller pensions ... and less to put aside for retirement.

To prepare our nation to meet the challenges of the 21st Century, we must do more to ensure equal pay, equal opportunity, and equal dignity for working women.

Today, I am pleased to announce a new $14 million Equal Pay Initiative, included in my balanced budget, to help the Department of Labor and the Equal Employment Opportunity Commission expand opportunities in the workplace for women and make wage discrimination a thing of the past. With more resources to identify wage discrimination, to educate employers and workers about their rights and responsibilities, and to bring more women into better-paying jobs, we will be closer than ever to making equal pay a reality for every American.

In my State of the Union address, I called on Congress to ensure equal pay for equal work -- and it brought members of both parties to their feet in an unanimous show of support. We know that equal pay is not a political issue -- it is a matter of principle, a question of what kind of country we want American to be today, and in the 21st Century, when our daughters grow up and enter the workplace.

There has been strong leadership from members in both houses of Congress, including Senator Harkin and Representative Norton. And I ask the Congress to take the next step and pass the Paycheck Fairness Act, sponsored by Senator Daschle and Representative DeLauro -- legislation that strengthens enforcement of our equal pay laws, expands opportunity for women, and helps working families to thrive.

If we meet this challenge, if we value the contributions of all America□,s workers, then we will be a more productive, prosperous and proud nation in the 21st century.

Thanks for listening.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:29-JAN-1999 12:11:48.00

SUBJECT: Re: Initiatives

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

TEXT:
fyi- this is the answer Jose gave Jay in case you want to expand on it.
---------- Forwarded by Laura Emmett/WHO/EOP on 01/29/99 11:17 AM ----------

Jose Cerda III
01/29/99 11:07:38 AM
Record Type: Record

To: Laura Emmett/WHO/EOP
cc: Paul J. Weinstein Jr./OPD/EOP, James T. Heimbach/WHO/EOP
Subject: Re: Initiatives

Laura/James:

Although the Children Exposed to Violence is a stand-alone, year long initiative that will be spearheaded by Deputy AG Eric Holder, legislation related to the initiative (e.g., increased penalties for committing a violent crime in the presence of a child) will be rolled into the crime bill.

As for our Zero Tolerance Drug Supervision initiatve (not drug-free prisons), it will both be rolled into the crime bill and be a key appropriations priority (whether or not the crime bill moves this year).

Jose'

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jeffrey L. Farrow (CN=Jeffrey L. Farrow/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:29-JAN-1999 12:11:48.00

SUBJECT: FY00 Territories Issues

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

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

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

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

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

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

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

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

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

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

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

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

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

TEXT:
These are brief bullets on (1) our FY00 budget initiatives for the
territorial areas AND (2) issues the budget does not address.==========
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D31]MAIL445875138.036 to ASCII,
The following is a HEX DUMP:

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7891F61FAA200F3DFD4AFA569014C191AA5DDADECC86747881B7F260EA09DBDA4D5DC8085FA037
9DFC0438878E28F3A2215ACF0746737BEBED76DBA091C9AADB0A536802A52B4770A8BE55658413

FY00 Territories Issues

CHIP

- The budget would quadruple Children's Health Insurance Program funding for the territories with $34 m. (Congress agreed to a one year $32 m increase last year.)

Rum Tax

- The budget would give Puerto Rico and the Virgin Islands the full $13.50 per gallon of the tax on the islands' and foreign rum vs. $10.50 now. It estimates this at $34 m for P.R. and $12 m for the V.I. annually -- but the P.R. estimate is probably far too low. One-sixth of the additional $3/gal. P.R. revenue would be for the P.R. Conservation Trust.

IF NECESSARY:

- The proposal is for five years to address Ways and Means' primary objection to our proposal last year: a permanent increase over $10.50. It could be extended in 2004

30A

- The budget would open IRC Sec. 30A (the tax credit based on wages and other spending in Puerto Rico by companies based in States) to new investments and extend it past 2005. Estimated tax relief of $450 m over five years and $5 b over 10.

IF NECESSARY:

- Two differences from our past proposals: It (1) would not repeal a 2002 cap on the credit individual companies can take and (2) extends 30A to 2009 vs. indefinitely.

- Those provisions would have increased the cost to $738 m over five years and $7.7 b over 10 in FY00 from $607 m over five and $6.2 b over 10 under our numbers -- which are significantly less than Joint Tax's -- in FY99. The tax relief of our FY00 proposal is the same as that of our past proposal in FY98.

- There was little effort in Congress on behalf of our proposal last year. Archer has refused to consider it.

- This proposal: preserves the primary objective of opening the credit to new investment; provides as much tax relief as we originally intended; may be more achievable; and keeps the issue alive for further extension if there is the will for that.

Puerto Rico R&E

- The budget would extend the Research and Experimentation Tax Credit to Puerto Rico since some income from P.R. of companies based in States is now being taxed.

Guam Compact Impact

- The budget would hike reimbursement of Guam's costs due to migration made possible

by the free association compacts with other Micronesian areas from $4.6 m to $10 m.

Virgin Islands Tariff Credits

- The budget would authorize tariff credits for jewelry made in the islands.

Empowerment Zones

- The budget would not include the territories in empowerment zones because they have greater tax incentives for investment -- Secs. 936 and 30A-- but we are considering including territories when those incentives expire.

Medicaid

- The budget does not propose lifting the cap on Medicaid in the territories (1) to concentrate on increasing CHIP and (2) due to the costs to which they do not contribute.

- Equal treatment might cost over $1 b a year.

SSI

- The budget does not propose extending SSI to the territories (1) due to the close to $1 b a year costs to which they do not contribute.

Education Act

- The budget does not propose equal treatment of Puerto Rico (1) because it already gets more than all but eight States and (2) that would give it more than all but three States.

Medicare

- We will consider changing the formula for hospital rates in Puerto Rico from 50%of the national rates/50% local cost factors to one using a greater percentage of national rates.

Cigarette Tax

- We are considering extending the cigarette tax to the territories since (1) it is to discourage health damaging smoking and (2) raise revenue for health programs that benefit the islands.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:29-JAN-1999 12:24:29.00

SUBJECT: Revised Final -- 12:15pm

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

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

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

TO: Caroline R. Fredrickson (CN=Caroline R. Fredrickson/OU=WHO/O=EOP @ EOP [WHO]
READ:UNKNOWN

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

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

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

TEXT:
Revised Final 1/29/99 12:15pm

PRESIDENT WILLIAM J. CLINTON
RADIO ADDRESS ON EQUAL PAY
THE WHITE HOUSE
January 30, 1999

Good morning. Americans have always believed that people who work hard should be able to provide for themselves and their families. That is a fundamental part of America□,s basic bargain. Today, I want to talk to you about what we are doing to make sure that bargain works for all of our people, by ensuring that women and men earn equal pay for equal work.

We are living in a time of remarkable promise. Our economy is the strongest in a generation -- with nearly 18 million new jobs, the lowest unemployment in 29 years, family incomes rising by $3,500, and the greatest real wage growth in over two decades. We have an opportunity -- and an obligation -- to make sure that every American can benefit from this moment of prosperity.

One of the best ways to meet this challenge is by putting an end to wage discrimination. When President Kennedy signed the Equal Pay Act 35 years ago, women were joining the workforce in ever-increasing numbers

-- but their work was undervalued. At the time, for every dollar a man brought home in his paycheck, a woman doing the same work earned only 58 cents.

We have made a lot of progress since those days. Last June, my Council of Economic Advisors reported that the gender gap has narrowed considerably -- in fact, we have nearly cut it in half. Today, women earn about 75 cents for every dollar a man earns.

We should be proud of this progress -- but 75 cents on the dollar is only three quarters of the way there. Americans cannot be satisfied until we are all the way there.

One big reason why the pay gap persists -- despite women□,s gains in education and experience -- is the demeaning practice of wage discrimination in our workplaces. Too many employers still undervalue -- and underpay -- work done by women.

Make no mistake: When a woman is denied equal pay, it doesn't just hurt her -- it hurts her family, and that hurts America. Between 1995 and 1996 alone, the number of families with two working parents increased by nearly two million. And in over ten million families, the mother is the only breadwinner.

Just think what a 25 percent wage gap means in real terms. Over the course of a working year, it means hundreds, even thousands of bags of groceries ... visits to the doctor ... rent and mortgage payments. Over the course of a working life, it can mean hundreds of thousands of dollars ... smaller pensions ... and less to put aside for retirement.

To prepare our nation to meet the challenges of the 21st Century, we must do more to ensure equal pay, equal opportunity, and equal dignity for working women.

Today, I am pleased to announce a new $14 million Equal Pay Initiative, included in my balanced budget, to help the Department of Labor and the Equal Employment Opportunity Commission expand opportunities in the workplace for women and end wage discrimination once and for all. With more resources to identify wage discrimination, to educate employers and workers about their rights and responsibilities, and to bring more women into better-paying jobs, we will be closer than ever to making equal pay a reality for every American.

In my State of the Union address, I called on Congress to ensure equal pay for equal work -- and it brought members of both parties to their feet in an unanimous show of support. We know that equal pay is not a political issue -- it is a matter of principle, a question of what kind of country we want American to be today, and in the 21st Century, when our daughters grow up and enter the workplace.

There has been strong leadership on fair pay from members in both houses of Congress, including Senator Harkin and Representative Norton. Today, I call on the Congress to pass the Paycheck Fairness Act, sponsored by Senator Daschle and Representative DeLauro -- legislation that strengthens enforcement of our equal pay laws, expands opportunity for women, and helps working families to thrive. This should be one of Congress□, first orders of business.

If we meet this challenge, if we value the contributions of all America□,s workers, then we will be a more productive, prosperous and

proud nation in the 21st century.

Thanks for listening.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:29-JAN-1999 12:31:22.00

SUBJECT: weekly report 1/29/99

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.D40]MAIL44743613S.036 to ASCII,
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Automated Records Management System
Hex-Dump Conversion

January 30, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

Health Care -- Medicare Commission Update: Your Wednesday event highlighting the need to dedicate a portion of the budget surplus to the Medicare trust fund was extremely well received by the Democrats and even by Senator Breaux. Professor Uwe Reinhardt effectively validated the economic need and rationale for the dedication of these revenues for this purpose. While the event went very well, it also highlighted the fact that the Medicare Commission has yet to formally acknowledge the need for these revenues. In addition, it is important to note that Democrats on the Medicare Commission, with the exception of Senator Kerrey, remain extremely disturbed about Senator Breaux's lack of responsiveness to their concerns about his current proposal. Following this week's Commission meeting, Senator Kennedy delivered a scorching critique of Senator Breaux's premium support proposal and other elements of the Chairman's mark, including provisions that increase the age of eligibility to 67 and require beneficiaries to pay copayments for home health services. We are working with HHS, OMB, and key White House advisors to develop options around the Commission for your consideration. These include the development of principles of reform, a strategy to work with the Commission to improve its current proposal and shape it into an acceptable package, or the development of your own counter-proposal.

Education -- Reaction to ESEA Proposals: Overall initial reaction to your education proposals has generally been positive within the education community and in the press. The education community is supportive of your proposals, understands clearly the need to meet the challenges of raising standards, turning around failing schools, ending social promotions and the use of unqualified teachers. At the same time, many are worried about their capacity to meet these challenges, and will be looking to the Administration's budget and ESEA reauthorization proposals for financial, programmatic and technical support to carry out the needed reforms. Your proposals have also generated considerable press attention, with several stories this week in the New York Times, Washington Post, and USA Today. These stories have focused on the content of your proposals -- particularly on the pro's and con's of ending social promotion -- and on the threat that states and school systems could lose funding if they fail to implement them. There have been a number of favorable editorials, including one by Diane Ravitch in the Wall Street Journal, NYU education professor

John Zimmerman in the New York Times, and Timothy Noah in Slate magazine. Criticisms of your proposal have come from David Broder, who charges that your proposals merely replicate and add a layer of federal bureaucracy to what the states are already doing, and Lamar Alexander, Checker Finn are quoted in a number of stories criticizing your proposal as a federal takeover of state and local education systems.

Education -- Ed-Flex: The Senate Health, Education, Labor and Pensions Committee marked-up and reported out an Ed-Flex bill last week, on an 11-0 partisan vote. The bill would give authority to waive selected federal education requirements to states that have academic standards, assessments, school report cards and a mechanism for intervening in failing schools. No Democrats were present at the session, which occurred shortly after several key votes in the impeachment trial. Kennedy, Dodd, Harkin, Reed and other committee Democrats (except Wellstone) reluctantly supported a similar version of this bill last year and expect to ultimately vote for it again when it comes to the floor. They and we would much prefer to address Ed-Flex as part of ESEA reauthorization, and we expect it will be taken up in that context regardless of the fate of this separate bill. Sen. Lott has made Ed-Flex a top priority, and has indicated that the Senate will take it up shortly. Republicans hope to score a quick, bipartisan victory with a strong local control message. DPC is working with Sen. Democrats to develop a series of amendments that will attempt to (1) strengthen the accountability provisions in the underlying bill, particularly by including all of the accountability provisions in your State of the Union Address; (2) counter the Republican message with an amendment that would also authorize the Class Size Reduction initiative for the full seven years as your originally proposed, and (3) ensure that Ed-Flex is revisited as part of the ESEA reauthorization by sunsetting this provision when ESEA reauthorization is complete.

Crime -- National Instant Check System (NICS): On Thursday, the U.S. District Court of D.C. denied the NRA's motion for a preliminary injunction to block the FBI from retaining records on gun purchasers as part of the NICS. As you know, the FBI's policy of temporarily retaining certain records is intended to ensure the integrity and effectiveness of the NICS while protecting the privacy of gun purchasers.

Crime -- Gun Show Directive: In response to your November 6, 1998 directive, the Treasury and Justice Departments are ready to submit a joint report to you with their recommendations on gun shows. The report will be released as part of next week's radio address. The report indicates that there were over 4,400 gun shows advertised in 1998, most of which were promoted by about 175 firearm collector organizations and individuals. While federally-licensed firearms dealers (FFLs) comprise 50 to 75 percent of the vendors at most gun shows -- and are required by the Brady Act to conduct background checks on prospective purchasers -- non-FFL vendors are under no legal obligation to conduct a background check or keep records on their sales, making it impossible for law enforcement to trace firearms they sell which are later recovered at crime scenes.

The report confirms that gun shows provide a forum for illegal firearms sales and trafficking, and serve as a source for firearms later used in crimes. In compiling the report, Treasury and Justice reviewed 314 gun show-related investigations involving more than 54,000 firearms. The investigations span a wide range of federal firearms violations, including straw purchases, transactions by FFLs without Brady checks, and the sale of kits to modify semiautomatic firearms into automatic firearms. Over 46 percent of the gun show-related investigations involved felons buying or selling firearms. In more than a third of the investigations, the firearms involved were known to have been used in subsequent crimes, including homicide, assault, robbery, and drug offenses. Many of the investigations involve numerous firearms: more than a third involved over 50 firearms and about one-tenth involved over 250 firearms.

In order to close the gun show "loophole", Secretary Rubin and Attorney General Reno's key recommendations include:

(1) **Broadly defining "gun shows"** to cover not only traditional gun shows but also flea markets and other similar venues where firearms are sold.

(2) **Requiring gun show promoters to register with ATF.** Promoters would be required to provide the time and location of every gun show, a list of vendors (both FFLs and non-FFLs), ensure that all vendors are given information about their legal obligations, and require vendors to acknowledge receipt of it. Failure to fulfill these obligations could result in revocation or suspension of registration or civil or criminal penalties.

(3) **Requiring Brady background checks on all firearms transferred at gun shows.** All firearms would be transferred by, or with the assistance of an FFL. Thus, FFLs would conduct a Brady checks and retain records for all sales by a non-FFL.

(4) **Reporting information to the ATF's National Tracing Center (NTC) on firearms sold at gun shows.** This would require FFLs to submit certain information (e.g., manufacturer, serial number) on all firearms transferred at gun shows to ATF's NTC and retain such information to assist in future firearms trace requests by law enforcement.

(5) **Developing an educational campaign,** in conjunction with the firearms industry, to encourage all firearms owners to take steps to ensure that firearms do not fall into the hands of prohibited persons such as criminals or juveniles.

In addition, the Departments are continuing to review the definition of "engaged in the business" of selling firearms to make future legislative and regulatory recommendations. The Gun Control Act requires that those who seek to "engage in the business" of importing,

manufacturing, or dealing in firearms must obtain a Federal firearms license. Engaging in the business without a license was involved in more than half of the 314 investigations reviewed by Treasury and Justice.

The report also recommends committing more resources to combat illegal firearms sales at gun shows. During the radio address, you will announce that your FY 2000 budget includes $24 million in new funds to hire over 120 additional ATF agents to bolster firearms enforcement. The new agents will be used to support investigations at gun shows, the arrest of violent criminals and gun traffickers, illegal attempts to buy firearms, and to expand the Youth Crime Gun Interdiction Initiative from 27 to 37 cities. The budget also includes an additional $5 million for U.S. Attorneys to increase firearms prosecutions.

Welfare Reform/Community Empowerment -- Implementation of FY 99 Initiatives: Last week, to complement your announcement of FY 2000 budget initiatives related to welfare to work, three agencies also announced grant competitions for FY 1999 funding for three of your initiatives. The Department of Labor announced the availability of $240 million in FY 99 Welfare-to-Work competitive grants, with priority for projects focusing on non-custodial parents or long-term welfare recipients with disabilities, substance abuse problems, limited English proficiency, or domestic violence (this is the third round of competitive grants). HUD announced the first competition for 50,000 welfare-to-work housing vouchers, which are available to housing authorities who collaborate with their welfare and workforce partners to provide assistance to help families get or keep a job. And, HHS announced the first grant competition under the Individual Development Account demonstration program you signed into law in October (at the Microenterprise event on February 5th, you will announce that your new budget includes $20 million for IDAs, which doubles the FY 99 funding level).

Welfare -- NYC Food Stamp and Medicaid Case: This week, Judge William H. Pauley III of Federal District Court in lower Manhattan issued an injunction directing the New York City to allow "all persons applying for food stamps, Medicaid and cash assistance . . . to apply for such benefits on the first day that they visit a Job Center" and to revise its training and procedures to insure that workers are following federal law. The city must submit a corrective action plan by February 10. As you know USDA's preliminary investigation found the city did violate federal law; HHS's investigation is still on-going.

Children and Families --Budget Initiatives: This past week, the Vice President and the First Lady hosted a series of events to announce new budget initiatives relating to children and families: (1) the Vice President unveiled that your FY 2000 budget will include a $607 million increase in Head Start, which would be the largest Head Start increase ever enacted and serve 42,000 additional children; (2) the First Lady announced that your budget will include $300 million over five years to provide enhanced support to children who emancipate from foster care, turning 18 without being adopted or permanently placed (a new Medicaid eligibility option and greater

support for vocational and life skills training); (3) the First Lady announced that your budget will include $67 million in new dollars for childhood asthma research, surveillance, and management; (4) the First Lady announced $40 million to provide freestanding children's hospitals -- for the first time -- with Federal financing for graduate medical education; and (5) the Vice President and the First Lady met with the women's groups and pro-choice advocates to announce that your FY 2000 budget will include an historic $25 million increase for Title X family planning services, as well as $25 million dollars for the United Nations Population Fund (the UNFPA).

Summaries of Leadership Bills

S. 7 -- The Public Schools Excellence Act: Senate Democrats have introduced the Public Schools Excellence Act (S. 7), which includes our school modernization and class size reduction proposals and an after-school initiative incorporating both the 21st Century Learning Program and funds for community-based after-school programs through the Child Care and Development Block Grant. The bill also includes a Teacher Excellence Act which closely tracks one we have been developing as well as relevant aspects of your accountability proposals. The bill would provide $1.2 billion to states and local school districts to help raise teacher certification standards, recruit excellent teacher candidates, retain and support promising beginning teachers and provide veteran teachers and principals with ongoing professional development needed to help all children meet high standards. Under this teacher quality proposal, states and school districts would be accountable for reducing the number of teachers with emergency credential and out-of-field placement of teachers.

S. 2 -- ESEA Reauthorization: Senate Republicans also introduced a bill (S. 2) to extend ESEA. However, the bill contains only a statement of themes and principals -- returning control to parents, supporting exceptional teachers, making schools safe, directing federal dollars to the classroom, and stressing basic skills and proven practices -- that will eventually be translated into specific legislative proposals.

S. 5 -- The Drug Free Centuries Act: In lieu of an omnibus crime bill, the Senate Republican leadership introduced an anti-drug bill, the Drug Free Centuries Act. The bill has four titles: international supply reduction, domestic law enforcement, demand reduction, and funding for federal counter-drug enforcement agencies. Overall, the bill does not contain many new proposals, but is intended to augment and complement many of the drug interdiction programs and funding increases enacted in last year's FY 99 omnibus appropriations act. To this end, the bill increases funding and establishes earmarks for specific Customs, Coast Guard, DEA, Treasury and Defense counter narcotic operations and equipment. Moreover, the bill's provisions on international supply reduction borrow significantly from the Administration's international crime bill introduced last year.

On the domestic front, the bill increases the number of border patrol agents to 15,000 and contains modest prevention proposals including a $10 million drug-free teen drivers incentive grant program and $5 million DEA drug-free families grant program. While the bill does not contain many changes to criminal penalties, it includes a controversial proposal to establish greater parity on cocaine sentencing by significantly lowering the threshold amounts of powder cocaine necessary to receive mandatory federal sentences (from 500 grams to 50 grams for a 5-year sentence, and from 5 kilograms to 500 grams for a 10-year sentence).

S. 9 -- The Safe Schools, Safe Streets, and Secure Borders Act of 1999: S. 9 is an omnibus crime bill introduced by the Senate Democratic leadership, similar to legislation introduced at the end of the last Congress. The Democratic bill contains a two-year extension for many programs authorized in the 1994 Crime Act, including COPS, the Violent Offender Incarceration/Truth-in-Sentencing programs, VAWA, and drug courts. The legislation incorporates a scaled-back version of the Democratic juvenile crime bill including provisions on the federal prosecution of juveniles as adults; grants for states to incarcerate violent youths; prevention programs for at-risk youth; and a number of Administration-supported firearms measures including a prospective ban on gun ownership for violent juveniles ("juvenile Brady") and an expansion of the Youth Crime Gun Interdiction Initiative. The bill also contains provisions to assist victims, including a model bill of rights for crime victims in the federal system. In addition, the bill contains numerous Administration-sponsored provisions on money laundering, international crime and hate crimes.

HR. 358 -- Patients Bill of Rights: The Senate Leadership reintroduced the Daschle-Kennedy Patients Bill Of Rights, which is the companion to the Ganske-Dingell bill. They included very few changes, and chose not to modify the old remedy / enforcement provision. They believe that they want to start the process with as strong a bill as possible and then negotiate off of it.

S. 10 -- The Health Protection and Assistance for Older Americans Act: This bill incorporates three major initiatives including: (1) your long term care initiative, (2) your Medicare buy-in, and (3) the reauthorization of the Older Americans Act, which you explicitly endorsed last year. Obviously, these initiatives will be broken out into separate bills when and if the legislative process commences. However, this bill reflects the Democrats' growing belief that they need to particularly emphasize their sensitivity and responsiveness to issues of importance to older Americans.

S. 17 -- the Child Care ACCESS Act: The Democratic Leadership bill on child care is called the ACCESS Act -- Affordable Child Care for Early Success and Security. It largely mirrors your FY 2000 budget request on child care, although it is more expensive, mainly because it makes the Child and Dependent Care Tax Credit (DCTC) refundable for low-income families. The bill adopts our proposals for $7.5 billion over five years for enhanced child care subsidies for low-income families and greater tax relief through the DCTC for middle-income families. Also, it incorporates your call to

expand after-school programs by tripling to $600 million the 21st Century Learning Program. Similar to our budget, the bill provides tax relief through the DCTC for parents who stay at home with their young children, but, unlike our proposal, makes this tax relief refundable, as well. To improve child care quality and promote early learning, the bill provides $2 billion over five years for States and $2.5 billion for communities, while your budget includes $900 million over five years for States to invest in quality improvements and $3 billion over five years for communities to promote school readiness. Finally, to boost private sector investment in child care, the bill adopts your proposed tax incentive for employers who offer child care services, but, unlike our proposal, also includes $400 million over five years to create challenge grants in which communities that generate funds from the business sector could receive matched federal dollars.

S. 18 -- the SAFER Meat and Poultry Act (Safe and Fair Enforcement and Recall): Senator Harkin has again introduced the food safety bill we supported last year that gives USDA much-needed leverage in regulating food processors and handlers. The SAFER Meat and Poultry Act, one of the Democratic Leadership's Initiatives, would: (1) require processors and handlers to notify the USDA about contaminated meat and poultry products; (2) authorize USDA to conduct mandatory recalls of unsafe products; (3) clarify and reinforce the USDA's authority to refuse or withdraw inspection of plants that violate safety standards or procedures; and (4) give the USDA the power to assess civil fines for violations. Currently, the USDA can respond to food safety violations only by bringing criminal actions or withdrawing inspections; and all recalls are done on a voluntary basis and no civil penalties are available.

S. 74 -- Paycheck Fairness Act: The Paycheck Fairness Act, an equal pay measure the Administration supported last year, is also included in the Democratic Leadership Initiative. The legislation, introduced by Senator Daschle, includes three major provisions:

> Increased Penalties for the Equal Pay Act (EPA). The legislation adds full compensatory and punitive damages as remedies, in addition to the liquidated damages and back pay awards currently available under the EPA. The proposal would put gender-based wage discrimination on equal footing with wage discrimination based on race or ethnicity, for which uncapped compensatory and punitive damages are already available.
>
> Non-retaliation provision. The bill would prohibit employers from punishing employees for sharing salary information with their co-workers. Currently, many employers are free to take action against employees who share wage information
>
> Training, Research, and Pay Equity Award. The bill provides for increased training for EEOC employees on wage discrimination; more field research on

equal pay; and the establishment of a national award to recognize model employers.

S. 11 -- Campaign Finance Reform: At Senator Feingold's suggestion, the Democratic Leadership introduced campaign finance reform legislation (S. 11) modeled on the bill that passed the Senate in 1993. The legislation includes a ban on "soft money," voluntary spending limits, anti-bundling provision, and reduced-price television time. In order to maintain the aura of bipartisanship around McCain-Feingold, the Democratic Leadership decided to use the 1993 bill. Senator Feingold's staff believes there is greater momentum in the House for passage of bipartisan campaign finance reform and have adopted a "House first" strategy.

S. 20 -- Brownfields And Environmental Cleanup Act of 1999: This bill (S. 20), whose author is Senator Lautenberg, is based on legislation introduced in prior Congresses is in part based on EPA's current "brownfields" program. The legislation would: 1) provide grants to local and state governments to evaluate brownfields sites. These evaluations would inform interested parties about what is required to clean up sites, and which types of reuse would best suit the properties; 2) furnish funds to state and local governments to establish and capitalize low interest loan programs for cleanups. These funds could be loaned to prospective purchasers, municipalities, and other parties; 3) limit the potential liability of innocent property buyers. So long as purchasers or landowners have made reasonable inquiries about possible contamination, they would be exempt from liability under federal Superfund law, as would owners of contiguous properties who did not cause or contribute to the release and exercised appropriate care.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Clara J. Shin (CN=Clara J. Shin/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:29-JAN-1999 12:57:49.00

SUBJECT: Race Report: Crime Section

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

TO: Michael Waldman (CN=Michael Waldman/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: Ann F. Lewis (CN=Ann F. Lewis/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: Joshua Gotbaum (CN=Joshua Gotbaum/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

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

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

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

TO: Minyon Moore (CN=Minyon Moore/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: Dawn V. Woollen (CN=Dawn V. Woollen/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

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

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

CC: Jocelyn A. Bucaro (CN=Jocelyn A. Bucaro/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

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

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

READ:UNKNOWN

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

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

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

TEXT:
A reminder that we would like to get your comments on the crime section of the President's race report by Monday cob. Please forward them to me. Thank you.

Withdrawal/Redaction Marker
Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Ron Klain to Elena Kagan re: Invitation (1 page)	01/29/1999	Personal Misfile

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

FOLDER TITLE:
[01/29/1999]

2009-1006-F
bm88

RESTRICTION CODES

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

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

C. Closed in accordance with restrictions contained in donor's deed of gift.
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RR. Document will be reviewed upon request.

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

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Mary L. Smith (CN=Mary L. Smith/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:29-JAN-1999 14:21:59.00

SUBJECT: Native American budget document

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

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

TEXT:
Could you review this Native American budget document by 5pm today? Lynn Cutler is speaking to a large group of tribes on Monday and would like to use this to prepare for her speech over the weekend. Thanks, Mary ==========
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D96]MAIL419287134.036 to ASCII,
The following is a HEX DUMP:

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PRESIDENT CLINTON FIGHTING FOR NATIVE AMERICANS IN HIS FY2000 BUDGET

February 1, 1999

The President's FY2000 budget represents a significant step forward for America, protecting Social Security and Medicare, and putting in place critical investments in education and training, from smaller class sizes to after-school care. The President also has made a significant commitment to helping Native Americans, particularly in the areas of education, health care, and law enforcement.

Budget Initiatives for Native Americans:

Investing in Education and Training.

- *Hiring 100,000 well-prepared teachers to reduce class size in the early grades.* President Clinton requests $1.4 billion in his FY 2000 budget, a $200 million increase over FY 1999 funding, for his initiative to hire 100,000 teachers to reduce class size in grades 1-3 to a national average of 18. This increase will enable local schools to recruit, hire, and train an additional 8,000 teachers, while continuing to pay for the 30,000 teachers hired with FY 1999 funds. To ensure that this initiative supports high-quality teaching, school districts may spend up to 15 percent of these funds for teacher training and other related activities. Studies show that smaller classes enable teachers to give personal attention to students, which leads to their getting a stronger foundation in the basic skills. The studies also show that minority and disadvantaged students show the greatest achievement gains as a result of reducing class size in the early grades.
  - **$6 Million of the $1.4 Billion is for BIA-funded schools.** The funds can used to recruit, hire and train teachers in order to reduce class size in the early grades.

- *Training and Recruiting New Native American Teachers.* Only two-thirds of Native American students successfully complete high school --far fewer than other students. To address this challenge, the President is proposing $10 million to begin training and recruiting of 1000 new teachers for areas with high concentrations of American Indian and Alaska Native students.

- **New Native American School Modernization Bonds. In addition to the $22 billion of School Modernization Bonds authorized in his budget for the construction and renovation of public schools, the President's budget includes a new component for Native American schools. The Secretary of Interior would be authorized to allocate $400 million in School Modernization Bonds ($200 million in 2000 and $200 million in 2001) to tribes or tribal organizations for the construction and renovation of BIA funded schools.**

- **BIA School Construction and Repair. The President has proposed $108 million, an 80 percent increase over the FY99 enacted level, to replace and repair some of the 185 BIA-funded schools on reservations. Of these funds, $78 million will be used to assist in replacing older, unsafe, and dilapidated schools on reservations in accordance with a Congressionally-approved priority list of replacement schools and would provide for**

much-needed health and safety-related repairs and improvements that together comprise a roughly $700 million backlog. The remaining $30 million will be used to assist tribes or tribal organizations in issuing the bonds described above by using these funds to assure principal repayment.

- **Strengthening BIA-Funded Schools and Colleges Serving Tribes.** The budget provides $542 million for the operation of elementary and secondary schools, tribally controlled community colleges, and assistance to Indian children attending public schools. This represents an increase of $35 million from FY99.
- **Education Technology.** A $103 million increase over FY99 to ensure that every child has access to computers, the Internet, high-quality educational software, and teachers that can use technology in the classroom.
- **Child Care Quality.** $173 million to improve the quality of child care for America's working families and $600 million for a new Early Learning Fund to improve early childhood education and the quality of care for children under age five.
- **Teacher Recruitment.** The President will propose $35 million --up from $7.5 million last year --to provide scholarships to 7,000 outstanding students who commit to teaching in high-poverty public schools.
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Fighting Crime in Indian Country. The President's budget included key increases for law enforcement:

- **Improves Law Enforcement in Indian Country.** The budget includes $164 million, a 50 percent increase over FY99, for the Departments of Justice and Interior for the second year of the President's Indian Country Law Enforcement Initiative. The initiative will improve public safety for the 1.4 million residents on the approximately 56 million acres of Indian lands. This funding will increase the number of law enforcement officers on Indian lands, provide more equipment, expand detention facilities, enhance juvenile crime prevention, and improve the effectiveness of tribal courts. **Although violent crime has been declining nationally for several years, it has been on the rise in Indian country. At the same time, police service on Indian lands has been steadily shrinking. Recognizing these facts, the President made a major commitment to improve law enforcement in Indian country**

Providing Health Care. President Clinton and Vice President Gore are committed to providing health care to the Native American population. This budget moves forward on their vision to help realize this goal.

- **Indian Health Service.** The President's **budget proposes $2.4 billion, an increase for the Indian Health Service (IHS) of $170 million or 8 percent over the FY 1999 level. This**

increase would enable IHS to continue expanding accessible and high-quality health care to its 1.4 million Native American service users. The budget enables IHS to further enhance current levels of direct health care services, including providing 34,000 breast cancer screening mammographies to Native American women between ages 50-69; creating 44 new dental unit teams to provide an additional 25,000 dental visits; reducing the incidence of complications related to chronic diseases such as diabetes through clinical monitoring and health promotion on life style changes; and enabling approximately 100 new community-based public health nurses to provide outreach activities, including home visitations, well-child examinations, immunizations, prenatal care, health fairs, follow-up visits, and missed clinical appointments.

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- **Indian Health Service (IHS) Contract Support Costs. Within the overall IHS increase, the budget continues to support Tribal self-determination by proposing a $35 million (+17%) increase for contract support costs, to cover the costs of existing tribal contracts and compacts.**

- **Helping to Reduce Racial Disparities in Health Status.** Despite improvements in the Nation's overall health, continuing disparities remain in the burden of death and illness that certain minority groups experience. American Indian and Alaska Natives are about three times as likely to dies from diabetes as other Americans. To address this need, the budget includes $145 million for health education, prevention, and treatment services for minority populations. Working with minority public health providers, advocates, and other consumer representatives, CDC will continue a $35 million demonstration program to enable selected communities to develop innovative and effective approaches to address these disparities.

- **Elevating the Position of the Director of IHS.** The President will also continue his efforts to elevate the Director of IHS to the position of Assistant Secretary.

Moving People from Welfare to Work and Empowering Communities. President Clinton and Vice President Gore are committed to tapping the potential of America's urban and rural communities. This budget moves forward on their vision to help revitalize America's communities.

- **Transportation and Housing for Families Moving From Welfare to Work.** The President's budget contains $580 million for welfare to work housing vouchers and transportation assistance to help those on welfare get to work and stay employed. **The President's budget provides $430 million for 75,000 welfare-to-work housing vouchers, including $144 million in new funds for 25,000 additional vouchers. This is a 50 percent increase over the 50,000 vouchers the President secured last year. The vouchers will help families move closer to a new job, reduce a long commute, or secure more stable housing so they can perform better on the job.** The President's budget also increases Access to Jobs transportation funding from $75 million to $150 million, **doubling the number of individuals and communities that can receive transportation**

assistance. This competitive grant program supports innovative state and local transportation solutions such as shuttles, van pools, new bus routes, and connector services to mass transit to help welfare recipients and other low income workers get to work.

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- **Indian Housing.** The budget provides $620 million in block grants for Indian housing, which will serve 552 tribes.

Protecting Sovereignty and Promoting Self-Determination.

- **Tribal Contracting and Self-Governance.** BIA and IHS will continue to promote Tribal self-determination through local decision-making. Tribal contracting and self-governance compact agreements now represent half of BIA's operations budget, and over forty percent of IHS' budget. The self-governance agreements, which give Tribes greater flexibility to administer Federal programs on reservations.

- **Indian Trust Fund Balances.** The Administration is committed to resolving disputed Indian trust fund account balances through informal dispute resolution and supports the unique government-to-government relationship that exists in Indian trust land management issues. After Tribal consultations, BIA submitted its "Recommendations of the Secretary of the Interior for Settlement of Disputed Tribal Accounts" to Congress in November 1997. Legislation reflecting these recommendations was proposed in 1998, but not enacted. It will be reproposed in the 106th Congress.

- **Trust Land Management.** As part of BIA's commitment to resolving trust land management issues, BIA introduced legislation in 1998 to establish an Indian Land Consolidation Pilot program to address the fractionation of Indian land. In FY99, BIA will devote $5 million to three pilot projects in Wisconsin, in cooperation with Tribes, to purchase small ownership interests in highly fractionated tracts of land from willing sellers. The FY2000 budget proposes to double funding for this program.

- **Trust Management Improvement Project.** The Administration supports DOI's Office of Special Trustee's trust management improvement project. Current activities include verifying

individual Indian's account data and converting these data to a commercial-grade accounting system. Ownership, lease, and royalty information related to the underlying trust assets will also be verified and converted to a recently acquired commercial asset management system.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Mary L. Smith (CN=Mary L. Smith/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:29-JAN-1999 14:23:05.00

SUBJECT: Native American budget document

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

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

TEXT:
By the way, OMB and Interior have reviewed it. Thanks, Mary
---------- Forwarded by Mary L. Smith/OPD/EOP on 01/29/99
02:22 PM ----------

Mary L. Smith
01/29/99 02:20:11 PM
Record Type: Record

To: Elena Kagan/OPD/EOP
cc: Laura Emmett/WHO/EOP
Subject: Native American budget document

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

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Amy Weiss (CN=Amy Weiss/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:29-JAN-1999 14:47:14.00

SUBJECT: Monday's School Board Event

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

CC: Jennifer M. Palmieri (CN=Jennifer M. Palmieri/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:
Is there news coming out of this we'd want to advance to wires/radio for am Monday or will it not be new stuff as not to step on budget? Pls advise. I can call the wires/radio sunday night, If nothing else, I can give them the press paper. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:29-JAN-1999 17:32:05.00

SUBJECT: Re: Race Report: Crime Section

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

TEXT:
Leanne and I are both reading this...jc3

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:29-JAN-1999 18:07:59.00

SUBJECT: Robert Pear on WTW

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

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

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

TEXT:
Just got this from DOL -- sounds like Robert may be writing story for tomorrow on WTW
---------- Forwarded by Andrea Kane/OPD/EOP on 01/29/99 06:08 PM ----------

Jennings Lynn <jennings-lynn @ dol.gov>
01/29/99 05:30:28 PM
Record Type: Record

To: Andrea Kane/OPD/EOP
cc:
Subject: FW: Huddle Item

From: Lewis Peggy A - OPA
Sent: Friday, January 29, 1999 4:59 PM
To: Saltz David; King Susan
Cc: Meftah Yvette; Jennings Lynn
Subject: Huddle Item
Importance: High

Hi everybody! i'm taking this opportunity to just update everybody at the same time... Robert Pear of the New York Times called at 3:10pm and wanted some information on Welfare-to-Work...
specifically:
*how many and which states turned down w2w funds
*a table which shows how much each state was alloted
*the amount each state "drew down"
*the total amount of w2w funds for this year
*the total amount for last year...

Lynn gave me the latest state by state break down...we also included the two 1999 w2w releases for Louisiana and Missouri.. the fact sheet from the White House event. It turns out he just wanted the information and didn't want to talk to anybody...
He says his deadline was today, so i assume we'll see something in the

paper
tomorrow...

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Karin Kullman (CN=Karin Kullman/OU=WHO/O=EOP [UNKNOWN])

CREATION DATE/TIME:29-JAN-1999 18:30:43.00

SUBJECT: school boards briefing paper

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

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

TEXT:
Please note, as this afternoon's conference call Senators Kennedy, John Kerry, and Gordon Smith will all remain for the President's speech, and will be seated on stage. They will have addressed the group prior to the President's arrival. (They were not initially planning to stay, but have now requested to do so.)==========ATTACHMENT 1 ==========
ATT CREATION TIME/DATE: 0 00:00:00.00

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Automated Records Management System
Hex-Dump Conversion

January 29, 1999

ADDRESS TO THE NATIONAL SCHOOL BOARDS ASSOCIATION

DATE: February 1, 1999
LOCATION: Grand Hyatt Hotel
BRIEFING TIME: 4:00pm - 4:20pm
EVENT TIME: 4:30pm - 5:30pm
FROM: Bruce Reed, Ben Johnson

I. PURPOSE

To build support for your education initiatives and education budget, and to thank the National School Boards Association for their efforts in fostering excellence in public elementary and secondary education.

II. BACKGROUND

You will be addressing approximately 800 participants in the National School Board Associations' Annual Federal Relations Network Conference. The audience will include NSBA leaders and approximately 700 local school board members from every congressional district. The theme for the conference is "The Federal Role: Collaboration for Student Achievement". The Federal Relations Network Conference began on Sunday, January 31, and will end tomorrow, Tuesday, February 2, with participants spending the day on Capitol Hill meeting their representatives and senators. NSBA and its Federation members represent the nation's 95,000 local school board members.

NSBA has been a strong supporter of all of your education initiatives of the past 6 years, and has worked closely with the Administration to secure their enactment. The participants in this Federal Relations Network Conference will be focused primarily on the upcoming reauthorization of ESEA, and on education appropriations. As they approach ESEA reauthorization, they will be generally supportive of the substantive direction of your accountability proposals, though concerned that they be given adequate flexibility to implement them. They will push generally for greater local flexibility in federal education programs, though they have also opposed block grant proposals in the past. They are staunchly opposed to the voucher proposals the Republicans are expected to offer.

III. PARTICIPANTS

Briefing Participants:
Bruce Reed
Mike Cohen
Ben Johnson
Doug Sosnik
Paul Begala
Joe Lockhart
Paul Glastris

Program Participant:
Barbara Wheeler, President, National School Boards Association

Stage Participants (seated only):
Senator Edward Kennedy
Senator John Kerry
Senator Gordon Smith
National School Boards Association Board of Directors (20)

IV. PRESS PLAN

Open Press.

V. SEQUENCE OF EVENTS

- You will be announced onto the stage.
- Barbara Wheeler, President, National School Boards Association, will make remarks and introduce you.
- You will make remarks, pose for a photograph with the stage participants, work a ropeline, and depart.

VI. REMARKS

Remarks Provided by Speechwriting.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:29-JAN-1999 20:33:12.00

SUBJECT: Tobacco Budget Paper

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

TO: J. Eric Gould (CN=J. Eric Gould/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

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

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

TO: Caroline R. Fredrickson (CN=Caroline R. Fredrickson/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: 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:
Here's the coordinated paper we've given Lew, Rubin, and Shalala for their upcoming testimonies:

Q&A (internal)
Summary of tobacco policy (internal)
Tobacco text of budget document (will be out with rest of budget on Monday)=========
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:
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CIGARETTE PRICE INCREASES

Question: The State Attorneys General Agreement with the tobacco companies is expected to result in an increase of about 40 cents per pack by FY 2000. The President's budget assumes a 55 cent per pack excise tax increase, plus the acceleration of a previously enacted 15 cent per pack increase under the 1997 Balanced Budget Amendment (BBA). Aren't these increases just a bigger version of the tobacco tax increase that was defeated in the Senate last year, which only started at 62 cents per pack and then ramped up to $1.10 per pack after five years?

Answer: Every day 3,000 children become smokers -- 1,000 have their lives shortened because of it. Almost 90 percent of adult smokers began smoking by age 18.

Pubic health experts agree that the single most effective way to cut youth smoking is to raise the price of cigarettes.

Last year, the President called for an increase of $1.10 per pack (in constant dollars) to help cut youth smoking in half within five years.

This year, we can build on increases already agreed to between the tobacco companies and the States and those already legislated by the Congress. As a result, we can reach our targets to reduce underage smoking with a legislated increase of half the $1.10 per pack amount.

This increase also will ensure that tobacco companies, rather than taxpayers, pay the costs imposed on the federal government by the tobacco industry. The 55-cent increase will cover the tobacco-related health costs incurred by the Department of Defense, the Veteran's Administration, the Federal Employees Health Benefits Program, and the Indian Health Service.

Background: The acceleration of the 15 cent excise tax would make the entire tax effective October 1, 1999, instead of the current law framework which would raise the excise tax 10 cents effective January 1, 2000 and another 5 cents effective January 1, 2002.

USES OF ADDITIONAL TOBACCO REVENUES

Question: The President's FY 2000 budget assumes that $8 billion will be received in additional tobacco revenues. What programs included in the Budget will be funded by these additional revenues?

Answer: Tobacco-related health problems cost the Federal government billions of dollars each year. In the case of tobacco, The Administration is seeking reimbursement to the taxpayer for costs directly attributable to the tobacco companies.

Exclusive of Medicare, we have calculated the tobacco-related health care costs in FY 2000 for four major Federal programs listed below:

	$ in Billions
Veterans Affairs	4.0
FEHB	2.2
Defense	1.6
Indian Health Service	0.3
	8.0

Background: 1. The overall programs shown above are funded in the President's budget. If pressed on whether this funding is contingent, note that obviously we would work with the Congress to fund the programs.

2. The House Veterans Affairs Committee has informally indicated that they may seek legislation to fence off a share of any tobacco-related litigation proceeds for veterans programs given the level of tobacco-related costs attributable to veterans. To our knowledge, the Committee has not yet contemplated language to earmark tax revenues. The Committee is still upset that $17 billion in PAYGO savings from clarifying eligibility for service-related disability compensation for veteran tobacco-related illnesses contained in last year's Transportation Equity Act (TEA-21) did not go to veterans programs. The 2000 Budget includes a new $56 million smoking cessation program available to any honorably discharged veteran to reduce tobacco-related disease within the veteran population.

TOBACCO TAXES AND SMUGGLING

Question: The combined effect of recent state settlements, scheduled increases in federal tobacco taxes, and your proposed $0.55 per-pack increase in the federal tax will raise the effective tax on cigarettes by about $1.00 per-pack. Is this large tax increase likely to cause a serious smuggling problem?

Answer: The Budget contains $5.2 million for enhanced enforcement at ATF. This increase will provide additional staff to enable ATF to accommodate increased monitoring and the investigative efforts needed to deter, identify and suppress illegal diversion activities.

The State Attorney Generals' settlement has a labeling requirement for exported cigarettes, and current law gives ATF authority to require export labeling beginning in the year 2000. Clear "EXPORT ONLY" labels on exported cigarettes should make smuggling these cigarettes back into the U.S. more difficult.

Even with the Administration's proposed tax increase, the total tax on cigarettes in the U.S. would remain low by world standards, and would remain well below the tax imposed by Canada at the height of its smuggling problem.

MEDICAID TOBACCO RECOUPMENT POLICY

Questions: What is the Administration's Medicaid tobacco recoupment policy in the Budget? Why wait until FY 2001 to begin claiming the Federal share of the state tobacco settlements? Why is there a discrepancy between the CBO and the Administration's estimate regarding the amount that the federal government will ultimately recoup from the states?

Answers: Current Medicaid law requires HCFA to recoup the Federal share (on average 57%) of all state third-party liability collections, including the recent state tobacco settlements. Since U.S. taxpayers paid a substantial portion of the Medicaid costs that were the basis for the state settlements, the Budget assumes the Federal government will follow the law and claim its share of the proceeds. However, the Administration again proposes to work with the States and the Congress to enact tobacco legislation that, among other things, resolves these Federal claims in exchange for a commitment by the States to use tobacco money to support shared state and national priorities which reduce youth smoking, promote public health and children's programs, and assist affected rural communities.

The Administration has delayed action on claiming the Federal share of the state tobacco settlements until FY 2001 so that we can work with the States and Congress over the next year on mutually agreeable legislation.

The Administration believes that Medicaid costs were the basis for the states' recovery, whereas CBO assumed that only half of the state settlement funds were attributable to Medicaid. Moreover, CBO assumed that there is a 25 percent probability that HCFA will successfully retrieve the funds from the states.

Background: The Budget envisions legislation that would waive HCFA's ability to recoup the Federal share in exchange for a commitment by the States to use the Federal share to support shared state and national priorities. Savings assumed in the Budget under this tobacco recoupment "allowance" sum to $4.6 billion (BA) in FY 2001 and $18.9 billion (BA) over FY 2001-2004.

Note that CBO will also likely score a PAYGO cost (roughly $3 billion over five years) to the provision in the legislation that would waive HCFA's recoupment authority, which would thus reduce available savings. However, OMB would not score a PAYGO cost

to this legislation given that it includes no tobacco recoupment collections in the Medicaid current law baseline.

DEPARTMENT OF JUSTICE LITIGATION

Questions: What is the Department of Justice doing in relation to developing a plan to sue the tobacco industry? How does this lawsuit relate to the proposed claim for recoupment of a portion of the state's settlement money?

Answers: The Justice Department is preparing a litigation plan to take the tobacco companies to court to recover certain federal health care expenditures caused by tobacco use.

The Justice Department has concluded that there are viable grounds to recover federal funds paid out as a result of tobacco-related illnesses and is creating a task force to make decisions on the best way to bring litigation.

There is no connection at all between the lawsuit and recoupment. The task force will be evaluating claims against the tobacco companies, not the states. Issues concerning recoupment of the state settlements are entirely separate and distinct.

Background: In FY 1999, the Department of Justice will fund the task force out of existing funds. However, the FY 2000 budget contains $20 million to pay for expenses related to the suit.

COSTS OF SMOKING TO MEDICARE AND OTHER FEDERAL HEALTH CARE PROGRAMS

Question: What are the Administration's estimates of the costs of smoking to the Medicare, Medicaid, and other federal health care programs?

Answer: The federal government has incurred hundreds of billions of dollars tobacco-related health costs. For one year (FY 2000) alone, the Administation estimates the federal government has incurred $8 billion dollars in tobacco-related health costs in Defense, Veterans Affairs, FEHBP, and Indian Health Service. However, we have not yet conducted a formal analysis of the past costs in these four programs, nor of the past or present costs in the Medicare program. We will be carefully analyzing these questions as part of the Justice Department's upcoming suit against the tobacco industry.

Background: Exclusive of Medicare, we have calculated the tobacco-related health care costs in FY 2000 for four major Federal programs listed below:

		$ in Billions
Veterans Affairs	--	4.0
FEHB	--	2.2
Defense	--	1.6
Indian Health Service	--	0.3
		8.0

We have not yet conducted a formal analysis of the past costs in these four programs, nor of the past or present costs in the Medicare program and we believe it is critical that we not make statements specifying the magnitude of potential liability in advance of the filing of the Department of Justice lawsuit.

The President said in the State of the Union that "Smoking has cost taxpayers hundreds of billions of dollars in Medicare and other programs." This remark was intended to include present and past costs in Medicare, Defense, Veterans, FEHBP, and Indian Health Services (past costs for Medicare could date back to its creation in 1965). At this time, no decision has been made on whether to estimate Medicaid tobacco costs.

PROTECTION FOR TOBACCO FARMERS

Question: The combined effect of the State Attorneys General Settlement Agreement and the President's proposed per pack price increases will certainly have an effect on tobacco volumes and crop requirements. What assistance does the President's budget include for tobacco farmers?

Answer: States, farmer, and industry representatives recently produced a $5 billion agreement to provide financial assistance to tobacco farmers and their communities. The Administration supports this agreement, and remains committed to protect tobacco farmers and their communities. The Administration will work with all parties, as needed, to ensure the financial well-being of tobacco farmers, their families, and their communities.

Background: During the Senate's consideration of the McCain tobacco legislation in the spring of 1998, a number of Congressional proposals were offered to compensate farmers and tobacco-dependent communities for the effects of the expected decrease in consumer demand for tobacco, and tobacco farmer's income, as the result of higher tobacco taxes. Much of the benefit from these farm compensation proposals actually would not have gone to farmers; instead the money would have been received by those who own the production quotas to grow tobacco that USDA made available in the 1930's and that have provided a continued income to the quota owners from quota leasing or rentals.

Additional: The Administration made supportive statements about some of the Congressional tobacco farmer proposals that surfaced last spring, but that support was conditioned on gaining agreement on comprehensive tobacco legislation. At this point, however, the Administration wishes to avoid any premature commitments on particular forms of tobacco farmer assistance, and therefore has not included proposals in the FY 2000 Budget.

FDA AUTHORITY TO REGULATE TOBACCO PRODUCTS

Question: The Administration has indicated it will support providing the FDA full authority to regulate tobacco products. Will the Administration support legislation that includes changes proposed in last year's Senate Commerce Committee bill or are other alternatives acceptable?

Answer: The Administration will support legislation that confirms the FDA's authority to regulate tobacco products in order to halt advertising targeted at children, and to curb minors' access to tobacco products. This goal can be achieved by legislation contained in last year's Senate Commerce Committee bill or other legislation reaffirming FDA's full authority over tobacco products.

Background: During consideration of the McCain tobacco legislation last spring, the DPC negotiated a compromise version of the FDA tobacco authority language. The McCain bill language created a separate chapter in the Food, Drug, and Cosmetic Act giving the FDA explicit authority over access to and advertising of tobacco products, in order to ensure that FDA regulation of tobacco did not impinge on the regulation of other products. The objective this year would be to gain agreement on the language included in McCain, or on language that otherwise confirms FDA's full authority over tobacco products.

TOBACCO - PUBLIC HEALTH SPENDING

Question: Is the Administration proposing increases for tobacco-related public health (cessation, advertising, education and enforcement)?

Answer: Yes, the FY 2000 Budget includes a $122.2 million increase for tobacco-related public health:

- +$34 million for FDA for a total of $68 million
- +$27 million for CDC for a total of $101 million
- +$56 million for a VA smoking cessation program
- +$5.2 million for ATF enforcement

Total: $122.2 million

Background: Increases will specifically be used for the following:

- FDA's funding will be used to continue the commissioning of state/local officials to enforce access restrictions of the FDA tobacco regulation to conduct unannounced visits to retailers using adolescents younger than 18 who attempt to purchase cigarettes or smokeless tobacco. FDA will also expand outreach efforts.

- CDC will enhance existing State-based tobacco control activities (e.g., ASSIST).

- VA's Smoking Cessation program can be utilized by *any* veteran who began smoking during military service to the extent that resources are available. Private service providers will be used to implement this program on a per capita basis to ensure wider access throughout the Nation.

- ATF's initiative provides additional staff to enable this agency to accomodate the increased number of controlled entities, the increased monitoring, and the investigative efforts needed to deter, identify and suppress illegal diversion activities.

CHILD CARE AND TOBACCO FUNDING

Question: Is the Administration again going to propose to fund child care and other activities unrelated to tobacco by raising taxes on smokers?

Answer: No. The President remains committed to a comprehensive child care initiative that assists parents in their search for affordable, quality child care and he is proposing to increase child care funding by $3.6 billion over 1999. However, none of this increase is paid for with tobacco funds. Instead, tobacco funds will reimburse the government for direct health costs incurred by the government as a result of tobacco products.

Background: A central component of both the 1999 and 2000 child care initiative is a $7.5 billion (over five years) increase in funding for the Child Care and Development Fund to assist low-income families with their child care costs. Last year, this piece of the proposal was funded with receipts from proposed tobacco legislation.

USDA TOBACCO USER FEE

Question: Explain the USDA tobacco user fee, and what does the Budget do for tobacco farmers?

Answer: The FY 2000 Budget proposes to cover the administrative costs of the federal tobacco programs by expanding the expiring assessment on marketings of tobacco. This "user fee" would increase from 1 percent of tobacco marketings (including imports) to two percent. The portion levied on farmers (0.5 percent) would remain the same as at present, while the charge to cigarette manufacturers would increase from 0.5 percent to 1.5 percent. The fee would raise about $60 million in FY 2000.

States, farmer, and industry representatives recently produced a $5 billion agreement to provide financial assistance to tobacco farmers and their communities. The Administration supports this agreement, and remains committed to protecting tobacco farmers and their communities. The Administration will work with all parties, as needed, to ensure the financial well-being of tobacco farmers, their families, and their communities.

Background: USDA incurs about $60 million in costs for programs that assist tobacco growers, including administering price support loans to tobacco grower cooperatives, crop insurance, and marketing oversight. The 1993 OBRA imposed a marketing assessment for deficit reduction on the tobacco program, which is required to operate at "no net cost" to the taxpayer anyway (ensured through a different assessment on cooperatives to cover any losses on their price-support loans). The deficit reduction fee is set to expire with the 1998 crop (with the final collection in FY 1999). The Budget proposal would extend and expand the fee, on a fiscal year basis, and provide discretionary savings. These savings helped to offset higher funding for USDA count-based office staff.

WHAT IS MEDICAID RECOUPMENT PAYING FOR?

Questions: The Budget shows a negative $4.6 billion allowance in FY 2001 growing to negative $4.8 billion in FY 2004. What is this allowance for? Specifically, what discretionary spending will be reduced?

Answers: The Budget envisions legislation that would waive HCFA's ability to recoup the Federal share in exchange for a commitment by the States to use tobacco money to support shared state and national priorities which reduce youth smoking, promote public health and children's programs, and assist affected rural communities. We will work with the Congress and the States to determine the appropriate mix of programs.

Background: Last year, the Administratrion proposed a menu of specific programs that states could fund, including child care, substance abuse and mental health programs, and Safe and Drug Free Schools. We are beginning discussions on what a menu for recoupment legislation might include.

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Tobacco Policies in the FY 2000 Budget

Every day, 3,000 children become smokers -- 1,000 have their lives shortened because of it. Almost 90 percent of adult smokers began smoking by age 18 and today, 4.5 million children aged 12 to 17 -- 37 percent of all high school students -- smoke cigarettes. Tobacco is linked to over 400,000 deaths a year from cancer, respiratory illness, heart disease and other problems.

The 1998 State tobacco settlement was an important step in the right direction, but more must be done to protect our children and hold the tobacco industry accountable. The Budget therefore mentions the following tobacco policies: 1) price increase; 2) FDA authority; 3) public health investments; 4) tobacco-related Federal health cost litigation; 5) farmers; and 6) recoupment negotiations, as discussed below:

(1) Raising the Price of Cigarettes to Discourage Youth Tobacco Use

Last year, the President called for an increase of $1.10 per pack to help cut youth smoking in half. This year, we can build on price increases already agreed to between the tobacco companies and the States and those already legislated by the Congress.

The FY 2000 Budget contains three revenue components:

- A 55 cents per-pack increase to be collected through tobacco excise taxes.

- Acceleration of the BBA's 15 cents excise tax. The 1997 Balanced Budget Agreement (BBA) raised the excise tax 10 cents per-pack effective January 1, 2000 and another 5 cents effective January 1, 2002, for a cumulative 15 cent increase. The FY 2000 Budget accelerates the effective date of this entire tax by one year, effective October 1, 1999.

- The BATF excise shift. Treasury assumes that revenues will be lower than we estimated in 2000 because smokers will stock up in FY 1999, before the 70 cent total price increase takes effect. The stocking up effect reduces 2000 revenues, but increases 1999 revenues by $304 million. To capture the 1999 revenues for use in 2000, Treasury came up with an excise tax shift. The shift loses money in 1999 and gains in 2000, more or less canceling out the stocking up effect. Note that the shift applies to all excise taxes collected by BATF, not just tobacco.

Federal Receipts Raised from Tobacco Excise Taxes (in billions)

Year	**1999**	**2000**	**2001**	**2002**	**2003**	**2004**	**00-04**
55 cents	.165	6.525	6.426	6.426	6.418	6.400	32.195
BBA 15 cent	.139	1.081	0.679	0.163	-----	-----	1.923
Shift BATF	-.381	.381	----	----	-----		

-----	.381					
Net Receipts	**-.077**	**7.987**	**7.105**	**6.589**	**6.418**	**6.400**
34.499						

In FY 2000, these revenues are attributable to tobacco-related health care costs in the following Federal programs (as displayed in Table S-___).

Federal Program	**Tobacco-Related Costs** (in billions)
Veterans' Affairs	4.0
OPM FEHB[1]	2.2
Department of Defense	1.6
Indian Health Service	0.3
TOTAL	**$8.0**

The programs above are funded in the Budget and funding is not contingent upon tobacco receipts.

(2) Re-Affirm Full FDA Authority to Regulate Tobacco Products

The Administration will again support legislation that confirms the FDA's authority to regulate tobacco products in order to halt advertising targeted at children and to curb minors' access to tobacco products.

(3) Support Public Health Initiatives To Curb Tobacco Use

The Budget includes $122.2 million **additional** funds for tobacco-related activities in CDC, FDA, VA, and ATF:

- $27 million for expanding CDC's existing State-based tobacco prevention activities. The FY 2000 increases brings CDC's tobacco budget to $101 million, $73 million (+37%) above FY 1999.

- $34 million for FDA's outreach and enforcement activities. FDA's increase doubles its tobacco budget to $68 million.

- $56 million for a smoking cessation program in VA for any honorably discharged veteran who began smoking in the military.

- $5.2 million for enhanced enforcement at ATF to prevent evasion of tobacco taxes.

1/ OPM Federal Employee Health Benefits Program figure includes the total premium costs, and is not broken down by enrollee share (28%) and Federal share (72%).

(4) Lawsuits to Recover Tobacco-Related Federal Health Care Costs

The FY 2000 Budget proposes $20 million for the Department of Justice to finance costs incurred in preparing and bringing litigation against tobacco companies for tobacco-related Federal health costs. The Justice Department has concluded that there are viable legal grounds to recover tobacco-related health care costs and is forming a task force to make decisions on the litigation. The Justice Department has noted two possible theories on which to proceed -- the Medical Care Recovery Act and the Medicare Secondary Payer Act -- but the eventual litigation could rely on additional theories as well.

(5) Protecting Farmers and Farming Communities [Note: the FY 2000 budget does not include additional funds for tobacco farmers].

States, farmer, and industry representatives recently produced a $5 billion agreement to provide financial assistance to tobacco farmers and their communities. This Administration supports this agreement and remains committeed to protecting tobacco farmers and their communities. The Administration will work with all parties, as needed, to ensure the financial well-being of tobacco farmers, their families, and their communities.

(6) Claiming the Federal Share of State Tobacco Settlements

Since U.S. taxpayers paid a substantial portion of the Medicaid costs that were the basis for the State settlement with the tobacco companies, Federal law requires that the Federal Government recoup its share. However, the Administration will work with the States and the Congress to enact tobacco legislation that, among other things, resolves these Federal claims in exchange for a commitment by the States to use tobacco money to support shared national and State priorities which reduce youth smoking, promote public health and children's programs, and assist affected rural communities.

The amounts below represent the estimated Federal share (roughly 57 percent) of tobacco industry payments under the State Attorneys General Settlement Agreement.

Year-by-Year Forgone Recoupment (in billions)

Year	**2000**	**2001**	**2002**	**2003**	**2004**	**2001-04**
Non-Recoupment	0.0	4.6	4.7	4.8	4.8	18.9

Text of FY 2000 Budget Language on Tobacco

***Stopping Youth Smoking*: Every day, 3,000 children become smokers -- 1,000 have theirs lives shortened because of it. Almost 90 percent of adult smokers began smoking by age 18 and today, 4.5 million children aged 12 to 17 -- 37 percent of all high school students -- smoke cigarettes. Tobacco is linked to over 400,000 deaths a year from cancer, respiratory illness, heart disease and other problems. To end this public health crisis, we must have a focused public health effort to reduce youth smoking. The 1998 State tobacco settlement was an important step in the right direction, but more must be done to protect our children and hold the tobacco industry accountable. The Administration believes additional steps must be taken at the national level to reduce youth smoking:**

- ***Raise the price of cigarettes so fewer young people start to smoke*: Public health experts agree that the single most effective way to cut youth smoking is to raise the price of cigarettes. Last year, the President called for an increase of $1.10 per pack (in constant dollars) to help cut youth smoking in half within five years. This year, we build on increases already agreed to between the tobacco companies and the States and those already legislated by the Congress. As a result, we can reach the target with a legislated increase of half this amount.**

  The funds that result from this policy will offset tobacco-related Federal health care costs. Each year, the Federal Government spends billions of dollars treating tobacco-related diseases for our Armed Forces, veterans, and Federal employees. It is fitting that the tobacco industry reimburse U.S. taxpayers for these costs, just as it has already agreed to do for the states.

- ***Reaffirm the Food and Drug Administration (FDA) full authority to keep cigarettes out of the hands of children:* The Administration will again support legislation that confirms the FDA's authority to regulate tobacco products in order to halt advertising targeted at children, and to curb minors access to tobacco products. While the State settlement limits tobacco advertising, it still allows certain marketing practices targeted at children, including newspaper and magazine advertising and retail signs near schools. Moreover, only by affirming FDA's authority can Congress ensure that America's children are protected from the next generation of tobacco industry marketing. We should take this matter out of the courts and ensure that the FDA -- the nation's leading health consumer protection agency, providing oversight for food, drugs, and medical devices -- has full authority to protect our children from tobacco.**

- ***Support critical public health efforts to prevent youth smoking:* To help support tobacco prevention programs in States and local communities, the Administration's budget will double the funding for FDA's tobacco budget to $68 million and increase funding for the Centers for Disease Control's tobacco control efforts by one-third, from $74 to $101 million. In addition, the Administration will continue**

to support measures that hold the tobacco industry accountable for reducing youth smoking.

- ***Protect farmers and farming communities:*** **The Administration remains committed to protecting farmers and their communities, and is monitoring closely on-going efforts by State, farmer, and industry representatives to provide funding and purchase commitments to tobacco farmers. The Administration will work with all parties, as needed, to ensure the financial well-being of tobacco farmers, their families, and communities.**

Since U.S. taxpayers paid a substantial portion of the Medicaid costs that were the basis for much of the State settlement with the tobacco companies, Federal law requires that the Federal Government recoup its share. However, the Administration will work with the States and the Congress to enact tobacco legislation that, among other things, resolves these Federal claims in exchange for a commitment by the States to use tobacco money to support shared national and state priorities which reduce youth smoking, promote public health and children's program, and assist affected rural communities.

In addition to these Medicaid costs, tobacco-related health problems have cost Medicare and other Federal programs billions of dollars each year. To recover these losses, the U.S. Department of Justice intends to bring suit against the tobacco industry, and the Budget contains $20 million to pay for necessary legal costs. The Administration will propose that recoveries will be used to enhance the security of Medicare for future generations.