

NLWJC - KAGAN

EMAILS RECEIVED

ARMS - BOX 049 - FOLDER -008

[04/23/1999 - 04/26/1999]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:23-APR-1999 11:16:18.00

SUBJECT: NYT story today

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

TO: Julia M. Payne (CN=Julia M. Payne/OU=WHO/O=EOP@EOP [WHO])
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TO: Bruce N. Reed (CN=Bruce N. Reed/OU=OPD/O=EOP@EOP [OPD])
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TO: Jennifer M. Palmieri (CN=Jennifer M. Palmieri/OU=WHO/O=EOP@EOP [WHO])
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TO: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Joseph P. Lockhart (CN=Joseph P. Lockhart/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TEXT:

I didn't call her for this purpose, but I gave Kit Seelye a hard time about her story today. She was talking before I even had a chance about how irritated hse was with her story being cut in half without her being consulted. She said she had a lot more in there about what we've done on this issue as well as a number of interesting quotes from him that were knocked out. So I don't know if our complaint is necessarily with her personally.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Tanya E. Martin (CN=Tanya E. Martin/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:23-APR-1999 13:45:42.00

SUBJECT: Teacher quality, British style

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

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

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

TEXT:

An interesting read.

----- Forwarded by Tanya E. Martin/OPD/EOP on 04/23/99
01:41 PM -----

"Pekel, Kent" <Kent_Pekel @ ed.gov>
04/23/99 10:28:06 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: Teacher quality, British style

Pasted below is an interesting piece from last week's Economist on British education reform, in particular their increasing focus on improving teacher quality and putting in place effective policies and practices for turning around low-performing schools. It's worth a read, not least because it's striking how similar their problems -- and proposed solutions -- are to ours. Kent

DATE

10-Apr-99

WORDS

2684

The government should not be deterred by the howls of anger from the teachers unions. Efforts to raise standards in schools are working

Journey up the learning curve

BACK in 1861, The Economist reported that farmers were among the main obstacles to the efforts then being made to

improve the education system, amid worries that other countries seemed to be doing rather better at it. At that time, education for poor children was provided by local boards of guardians with tax-raising powers. In rural areas, the boards were often dominated by farmers who doubted the value of education and wanted boys at work in the fields, not the classroom. Their attitude, noted Walter Bagehot, then editor of this paper, was that "a bad education would be quite sufficient for the poor."

Nowadays it seems that the main obstacles to improving the nation's schools are entrenched attitudes within the education world itself. As with the farmers of Victorian times, these attitudes are held sincerely by people who insist both that their views are realistic and that they have the children's best interests at heart. However, the effect is much the same-many children, poor ones especially, end up achieving much less than they are capable of.

The latest evidence that British schools have been systematically failing a large number of their pupils came with the release last month of the Moser report on adult literacy. It found that 22% of British adults are "functionally illiterate"-unable to perform simple tasks like looking up the entry for "plumbers" in the phone book. Britain's performance on this measure was almost three times as bad as Germany's.

Yet the efforts of the Labour government-and of the Tory governments that preceded it-to drag up standards in Britain's schools have been opposed systematically by the teaching unions. They howled when the Conservatives introduced "league tables" which showed schools ranked by exam results. And they were enraged when the Labour government not only kept the league tables, but reappointed their champion, Chris Woodhead, as England's chief inspector of schools. Mr Woodhead, chief scourge of educational excuse making, is still under fire. Indeed his opponents have gained a damaging new weapon, as allegations-strongly denied-that he once had an affair with an A-level student have resurfaced.

But, with or without Mr Woodhead, the government is likely to remain committed to a radical programme of educational reform. A fresh battle broke out over Easter as teaching unions threatened to strike over plans to introduce "performance-related pay", which would allow head teachers to give outstanding teachers a rise in pay. This should allow the best teachers to earn substantially larger salaries and help to ease the problem of persuading graduates to choose a career in teaching. But Doug McAvoy, the head of the biggest union, the National Union of Teachers (NUT), is outraged. He predicts that efforts to introduce payment-by-results will end in "disaster".

In response, the government has made a tactical withdrawal. The introduction of performance-related pay is likely to be delayed by a few months, and there will be further consultations over the method of assessment. But the government insists that it remains committed to linking teachers' pay to performance, and to using exam results (suitably weighted for the quality of pupils) as part of the method of

assessment. If the government sticks to this plan, it may provoke a confrontation with the teachers. And even if the government manages to smooth the way for performance pay, other battles loom. The NUT is also threatening to call strikes in response to the government's "fresh start" policy for failing inner-city schools. This would allow the government to close poor schools, and then to re-open them with new teachers and management-perhaps provided by private firms, which the government has invited to submit bids.

Some teachers claim that basing pay on judgments of performance will sow division in the staff-room. Others attack the closure of bad schools as gimmicky, and as a way of stigmatising the many disadvantaged children and those teachers who are working in the most difficult conditions. Their position reflects a particular ideological view-albeit one that is no longer shared by the leadership of the Labour Party. But the arguments offered by the NUT also display something less defensible-a defeatist tolerance of low expectations and standards.

To give an example: in February, the latest tables were published of how many 11-year-olds had reached "level four" in the national tests. (The test's creators assumed that about three-quarters of 11-year-olds should be able to reach this level.) The NUT said that last year's lack of progress showed that the government's targets for a further big improvement by 2002 were "unrealistically high" (see 1). David Blunkett, the education secretary, insists that they can be reached and, to his credit, has offered to resign if they are not.

Moreover, it is often claimed that schools' vastly differing results are simply determined by the social mix of their pupils. Yet it is clear from the recently completed five-year programme of inspecting every state school in England that although there is indeed some correlation between social mix and test results, what is more noteworthy from the broad scattering of results is that some schools do far better than others with similar intakes. Mr Woodhead's most recent report concluded: In a set of schools with similarly high levels of disadvantage across a range of indicators, the proportion of pupils achieving level 4 or above (in standardised national literacy tests) ranged from about 65% to 15%. Some schools do well against the odds, while others in similar circumstances underachieve.

In fact, if all schools with similar intakes did as well as the best,

then Mr Blunkett's targets would be exceeded. If a school like Biddick Hall Junior, on a crime-ridden estate in Tyneside where 54% of the pupils are poor enough to get free meals (almost three times the typical figure), can beat the national average, then other schools in less challenging circumstances ought to be doing much better than they are. As Mr Woodhead puts it: "the rich do not have a monopoly on intelligence."

Along with that often implicit assumption, there frequently comes another which is usually stated more explicitly: that a lack of spending on schools is the main barrier to improving

standards. In fact, the evidence shows a surprising lack of correlation between spending and success. This is true whether you compare individual schools in Britain, or compare the achievements of entire education systems using the results of the giant Third International Mathematics and Science Study, published in 1996, in which 500,000 pupils in 41 countries took part and in which Britain's performance was mediocre. In particular, though it would seem counter-intuitive, studies show that the main thing a school might spend any extra money on-smaller class sizes-does not seem to help, except perhaps for pupils aged up to seven.

So if neither school spending nor social deprivation entirely explain why some schools do much better than others, what does? Having overseen the inspection of all of England's 24,000 state schools, Mr Woodhead insists it is now abundantly clear that two things make most of the difference: good teaching methods and effective leadership by the head teacher.

When the five-year inspection programme began, it soon became clear that these qualities were especially lacking in "junior" schools (ones for children aged seven to 11). In the under-performing schools, lessons were often poorly planned and undemanding; and the pupils were too often left to do their own thing rather than actually being taught-a hangover of the "progressive" theories that were foisted on teachers from the late 1960s. In such schools, the head teachers were often too ready to believe that their staff were doing their best under the circumstances, even where the evidence of failure was unmissable. And they themselves were doing little to unite the school behind a well-thought-out plan for progress.

In the best schools, inspectors soon found, teachers spent rather less time dashing round the class offering encouragement to pupils as they worked on individual projects and rather more time addressing the whole class, posing challenging questions to the pupils in turn to ensure they are keeping up. In the educational jargon, this is "whole-class interactive teaching". In plain language, teaching. In the schools that do well, it is

usually

found that each lesson fits in to a carefully crafted plan of where the teacher wants to take the class each term; and that pupils' progress is carefully monitored.

Shoot the messenger

These findings, as they began to emerge, emboldened Mr Woodhead to launch a crusade against sloppy teaching, expressing his criticisms with a bluntness that caused gasps of horror in the normally polite world of education. He started to quote figures for the numbers of teachers that he wanted sacked. He tore into the educational sacred cows of smaller class sizes and the need for more "resources" (ie, public spending). Tim Brighouse, Birmingham's influential chief education officer, accused him of conducting a "reign of terror". Mr Brighouse resigned last month from a government task force for schools, seemingly because he could no longer bear to sit alongside Mr Woodhead. In the education journals and in staff rooms across the land, Mr Woodhead became a

hate-figure: they called him "Woodentop", "Dickhead" and worse, no doubt.

But Mr Woodhead's constant badgering seems to be bearing fruit: there has been a sharp improvement in the quality of junior-school lessons during his reign of terror (see 2 above) and pupils are finishing their compulsory schooling with better exam passes than ever before (see). Still, there are few signs that he is easing off: presenting his latest annual report in February, Mr Woodhead said some local-education authorities were a "mire of political incompetence" which damaged the schools supposedly in their care; in a speech a few days later he attacked the "pretension and pomposity and empty romanticism" of education professors who sought to build a fake mystique around teaching instead of concentrating on the practicalities of which methods work best.

As well as providing ammunition for Mr Woodhead, the evidence emerging from the programme of school inspections and the league tables of test results has led to a drastic change in the politics of education. In the late 1980s the then Conservative government was pushing through the reforms that led to the gathering of such evidence against stiff opposition from the Labour Party, whose view on education was pretty much whatever the NUT said. Now things have changed: on taking power in 1997, Labour horrified the unions by "naming and shaming" a list of persistently failing schools, which it said would have to shape up quickly or be shut. The pressure has been kept up, with Tony Blair recently saying that he did not blame other parents for rejecting inadequate inner-city schools for their children, just as he had.

Measures to speed up the departure of bad teachers, and to pay the rest by their results, are the next steps. Apart from this, the two bastions of the educational establishment-local-education authorities and the universities' teacher-training departments-have been told that if found wanting, the former may be privatised and the latter may have their funding cut off. League tables, having once been considered divisive and misleading, are now thought of as such a good thing that they are being extended to universities, hospitals and social services. And, in the ultimate insult to opponents of this tough regime, Mr Woodhead was recently offered a renewal of his contract with a big pay rise.

In one respect, though, the government's Damascene conversion has been incomplete: having, laudably, continued the previous government's policy of encouraging schools to specialise in a particular subject area (from technology to the arts), ministers are prepared to allow such schools to select a proportion of their pupils on the basis of aptitude for the specialist subject. Yet selection by overall academic ability is still being frowned on, officially (though not by some of Mr Blair's advisers).

Schools that develop a distinct ethos seem to do especially well, and having a fair and open system for choosing their pupils is a good way to help them develop such an ethos. The alternative, for schools with more applicants than places, is to have a catchment area-which means selection by house

prices, ie, by parental income-which is not the egalitarian solution that proponents of non-selective education claim it to be.

Onwards and upwards

This one lapse aside, the government has shown itself to be willing to abandon dogma and to adopt a policy of "what counts is what works". Having learnt from inspections and international studies which methods work best, it has begun a programme of ensuring that all schools get to know about them-particularly methods for teaching basic literacy and numeracy. This in itself is a good thing but there is an important lesson to be learned from the imposition of progressive, or "pupil-centred" teaching methods on schools following the Plowden Report in 1967. Many teachers at the time doubted the evidence on which this push to abandon traditional methods was based (and they were right, since the evidence was often flimsy). But it became the orthodoxy of the day and they were made to adopt it.

It then took about 30 years to realise that progressive methods had not proved possible to implement successfully in most schools, and that instead many had ended up with an unworkable mess. Could the same fate befall the present attempt to foist "new" techniques on a fearful profession?

At least the methods being promoted through the schemes for daily literacy and numeracy hours in England's primary schools have the backing of more convincing research than was available to Lady Plowden and her committee in 1967. Pupils on the government's schemes are being monitored and so far they seem to be making good progress.

But already, a trial in Scottish schools has found that a rival system for teaching children to read seems to produce better results than the government's. The scheme, "Jolly Phonics", takes an even more fundamentalist approach than the one that is officially approved south of the border: not only do pupils learn to break words down into their component sounds (phonemes), they start by memorising all 44 phonemes of the English language.

To help it avoid charges of suppressing the emergence of methods that may prove better than its favoured ones, the government should look to one particular principle, outlined in its education white paper of autumn 1997: that intervention in schools should be in inverse proportion to their success. If a school finds new ways of achieving good results, then it should be applauded-and copied. If not, then there is a strong case for intervention.

Since it now seems much clearer what does work, the question is how to import such successful measures, and quickly, into the minority of persistently failing schools. One way, which the government now seems prepared to allow, is to encourage the formation of private school-management chains based on the methods of the best schools. These will be encouraged to take over failing schools and then to run them under contract to the state.

Such radical measures were unthinkable until a matter of months ago. But, for the time being at least, there seems to be a realisation that, in spite of the progress made in improving schools over recent years, drastic measures are still needed to root out the significant pockets of under-achievement that remain.

With this welcome realisation, the prospects look brighter than for some time. As Mr Woodhead commented in February, on presenting his fifth annual report: "there is every reason for optimism but a long way yet to go." Or, as Walter Bagehot put it in The Economist of June 29th, 1861, commenting on an earlier inquiry into the state of schools: "nineteen-twentieths of our children are receiving an education of some sort. We may well be warmed into hope by this result, though we should neither be lulled into apathy nor stimulated into over-confidence."

Message Sent

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Bethany Little/OPD/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: James J. Jukes (CN=James J. Jukes/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:23-APR-1999 17:41:14.00

SUBJECT: LRM MDH60 - - LABOR Testimony on LABOR Draft Bill on Welfare-To-Work Grant

TO: dot.legislation (dot.legislation @ ost.dot.gov @ inet [UNKNOWN])
READ:UNKNOWN

TO: justice.lrm (justice.lrm @ usdoj.gov @ inet [UNKNOWN]) (OA)
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TO: lrm@os.dhhs.gov (lrm@os.dhhs.gov @ inet [UNKNOWN])
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TO: aimparato (aimparato @ ncd.gov @ inet [UNKNOWN])
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TEXT:

Please direct any comments on the attached testimony (roughly 16 pages) to Melinda Haskins by 1:00 Monday. Thank you.
EOP addressees will not receive a paper copy of this document.

- fathersf.2

----- Forwarded by James J. Jukes/OMB/EOP on 04/23/99

05:33 PM -----

LRM ID: MDH60
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, April 23, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference
OMB CONTACT: Melinda D. Haskins
PHONE: (202)395-3923 FAX: (202)395-6148
SUBJECT: LABOR Testimony on LABOR Draft Bill on Welfare-To-Work Grant Extension

DEADLINE: 1 P.M. Monday, April 26, 1999
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Attached is the DOL (Uhalde) testimony for the Tuesday, April 27th, HWM hearing on "fatherhood initiatives."

This deadline is firm. If we do not hear from you by the comment deadline, we will assume that you have no objection.

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 Elizabeth Gore

LRM ID: MDH60 SUBJECT: LABOR Testimony on LABOR Draft Bill on
 Welfare-To-Work Grant Extension
 RESPONSE TO
 LEGISLATIVE REFERRAL
 MEMORANDUM

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

You may also respond by:

- (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
- (2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

TO: Melinda D. Haskins Phone: 395-3923 Fax: 395-6148
 Office of Management and Budget
 Branch-Wide Line (to reach legislative assistant):
 395-7362

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

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

- _____ Concur
- _____ No Objection
- _____ No Comment
- _____ See proposed edits on pages _____
- _____ Other: _____

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

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

TEXT:

Unable to convert ARMS_EXT: [ATTACH.D70]ARMS20497403V.136 to ASCII,

The following is a HEX DUMP:

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```

DRAFT 4/23/99

TESTIMONY OF RAYMOND J. UHALDE
DEPUTY ASSISTANT SECRETARY OF LABOR
FOR EMPLOYMENT AND TRAINING
BEFORE THE
SUBCOMMITTEE ON HUMAN RESOURCES
THE COMMITTEE ON WAYS AND MEANS
UNITED STATES HOUSE OF REPRESENTATIVES

April 27, 1999

Madam Chairman and Members of the Subcommittee:

Thank you for the opportunity to appear before you today to discuss fatherhood and the Administration's Welfare-to-Work reauthorization proposal. Fatherhood is an issue that has been important to me for a long time, both in a personal and professional sense. For welfare reform to succeed, Secretary Herman recognized early on that only a part of the job is to promote work among welfare recipients. We must also strengthen families. The well-being and life success of children on welfare requires that we find ways to bring fathers back into their children's lives. This means, at least, financial support of their children. But it also means the emotional, nurturing and coaching support that fathers should provide to their children.

Single parents need help to achieve long-term self-sufficiency. Fathers who are absent from the home are an untapped resource for helping to provide this help, and here I am referring to far more than their financial contributions.

Welfare to Work Program

The Welfare to Work program is a current initiative that serves non-custodial parents. The Welfare to Work program was enacted as part of the Balanced Budget Act of 1997 to provide employment-related services to assist the hardest-to-employ welfare recipients, and noncustodial parents of children on welfare, to obtain and retain unsubsidized employment. The

program is administered by the Department of Labor and the employment-related services are provided through the State and local workforce investment system established under the Workforce Investment Act, which provides access to employment and training services for all Americans, including low-income workers, dislocated workers, and other adults and youth. The linkages between the Welfare to Work program and the broader workforce investment system, with that system's information, services, and connections to employers, is intended to maximize the opportunities for hard-to-employ recipients and noncustodial parents to find and keep jobs.

The Welfare to Work program is a key component of the overall welfare reform effort. While there has been a significant decline in welfare caseloads, many of the individuals remaining on welfare are long-term recipients who face significant barriers to employment. As time limits on TANF assistance begin to take effect, these individuals are in particular need of targeted services linking them to the labor market that the Welfare to Work program provides. In addition, the Welfare to Work program provides employment-related services to noncustodial parents to enable them to increase their contributions to the well-being of their children.

Demographic and Economic Characteristics

As background, I would like to share with you a demographic profile of low-income non-custodial fathers. In 1990 the Survey of Income and Program Participation indicated that there were 3.4 million noncustodial fathers with incomes below 200 percent of poverty. These are men who are in the prime of their working lives with little or no work history and who are lacking the skills and education to succeed in a technologically advanced and competitive labor market which demands skilled workers. Even in today's vigorous economy, with the lowest unemployment rate and the fewest people on welfare in decades, these men face severe barriers

to stable jobs with rising wages.

While 43% of these men ranged in age from 25 to 34, only 16% are under 25. Most of the men either worked less than full-time (39%), or were absent from the labor force or unemployed (29%). Less than a third of the men worked full time year round. Statistics paint a portrait of men with sporadic and part-time work, living on the margins of society, unable to support families. When they do work their wages are low, averaging slightly better than the current minimum wage. These fathers have scarce financial resources to support themselves and their children.

The labor market problems of poor noncustodial fathers are compounded by a lack of education credentials; approximately 43% of them are high school dropouts. The labor market in the United States has gone through rapid technological changes in the last 25 years. Most jobs now require more social, cognitive and technical skills than in the past. This is an era of deteriorating labor market prospects for individuals with limited skills and education. The past two decades have brought real declines in the wages for such individuals.

The poor labor market prospects of these men affect families and neighborhoods. At least three fourths of these fathers have been arrested or have on going legal problems. And 46% of them have been convicted of a crime. Research indicates that once a young man has been incarcerated, his employment and earnings are substantially reduced for many years to come and if you are in jail you are not likely to be supporting your family.

Many low income noncustodial fathers live in central cities that are distant both physically and psychologically from the jobs in the suburbs. Discrimination in employment may also complicate the employment prospects for minority noncustodial fathers. Noncustodial

fathers are disproportionately minority; 38% are African-American and 19% are Hispanic. Over half of these fathers have never married the mothers of their children. The numbers are daunting, almost two million minority men live apart from their children and are not working full time, year round.

Noncustodial parents also lack access to social networks that can be critical in locating employment. A large fraction of jobs is filled by informal recruitment among employers who seek referrals from their current employees and other acquaintances. Many noncustodial fathers are not a part of these social networks, which can greatly enhance employment prospects.

Department of Labor Demonstration Projects

The Department of Labor has had a long-standing interest in improving the employment and earnings of low income fathers. We have participated in two demonstration projects focused on young unwed fathers or non-custodial parents: the Public Private Ventures Young Unwed Fathers Demonstration and the Parent's Fair Share Demonstration. We are now participating in the Partners for Fragile Families Demonstration through our Welfare to Work competitive grants program.

Improving the employment prospects of low income noncustodial fathers is difficult, as we learned from the Parents' Fair Share Demonstration. The evaluation of the Parents' Fair Share Demonstration found that child support payments were increased through programmatic intervention. These payments came mostly from men who were already working but not paying child support before participating in the program. This was encouraging news. The discouraging finding was that the fathers participating in the Parents' Fair Share Demonstration did not improve their employment and earnings. Unfortunately, the original program design for

the Parents' Fair Share Demonstration, which included an intensive high support on-the-job training model, was never implemented. This was, in part, due to operational difficulties between the child support and employment and training systems, and, in part, due to reluctance of employers to participate. Recent changes in the workforce and child support systems, and the improved economy, would likely enhance the prospects for successfully implementing the high support on-the-job-training model.

There is evidence from evaluations of employment and training programs that job training can be effective in serving highly at-risk youth likely to be unwed fathers. The JOBSTART demonstration attempted to replicate the successes of Job Corps in serving severely disadvantaged high school dropouts in less intensive nonresidential settings. The Center for Employment Training (CET) site in the JOBSTART evaluation was 50 percent male, and this site raised the earnings of participants by \$3,000 a year over the control group, during the last two years of a four year follow-up. The JOBSTART demonstration overall raised the earnings of males with prior arrest records by \$1,500 during the last year of follow up. In addition, the National JTPA Study also found positive results for adult males receiving services under JTPA. On-the-job training seemed particularly effective in assisting men, resulting in earnings gains of over \$2,500 over the follow-up period.

The Welfare to Work Grants Program is making a sizeable investment in the future economic well being of non-custodial individuals and their families. Expected dividends include reduced child support arrearage and welfare dependency, and an increase in tax paying individuals capable of supporting their families.

We are trying to use the Welfare to Work grants to fund a range of activities that are

designed to move low income fathers into jobs, with an emphasis on jobs that have the potential for increased earnings. The Welfare to Work funds can be used broadly for employment-related activities including: wage subsidies in the public or private sector; on-the-job training; job readiness; job placement services; post-employment services; job vouchers for job readiness; placement or post placement services; community service or work experience; job retention services and supportive services.

The Department of Labor announced round 1 Welfare to Work competitive grant awards on May 27, 1998; 8 of 51 grants had a substantial focus on serving noncustodial parents. Most of these grants planned for at least 25% of program participants to be noncustodial parents, and two planned to serve exclusively noncustodial parents. Of these, five projects had specific services and strategies targeted to the needs and barriers facing noncustodial parents. These services included legal services to help participants be more attractive to employers, peer support groups, emphasis on life skills, integrity and family responsibility, and outreach and recruitment through the courts system. Two of these grants planned to build on past experience in serving hard-to-employ groups such as the homeless and disabled individuals in providing supported work environments for noncustodial parents.

Round 2 Welfare to Work competitive grants were awarded in November 1998; 12 of 75 competitive grants proposed to serve at least 30% noncustodial parents. Two of these proposed to serve exclusively noncustodial parents. These grants total just over \$39 million awarded by the Department to meet the needs of noncustodial parents. In reviewing Round Two grants oriented towards serving noncustodial parents, certain themes in service strategies became apparent. These grant proposals tended to emphasize:

- 1) commitment to family and fatherhood, combined with parenting skills training;
- 2) job readiness, stressing positive attitudinal change (workplace behavior, employer expectations, dress, interpersonal skills, interviewing skills, job search techniques, coping with stress, anger management, etc);
- 3) service to address barriers associated with substance abuse and criminal record;
- 4) intensive job retention and supportive services including case management, coaching, and peer support activities; and
- 5) strategies to recruit noncustodial parents, especially working with the court system and child support enforcement agencies.

The Department plans to announce Round 3 Competitive Grants in late summer 1999. This round identified noncustodial parents as one of five targeted populations. Proposals serving this population are eligible for 10 bonus points in round 3.

Some examples of what Welfare to Work grants are funding for fathers include:

Institute for Responsible Fathers

The Institute for Responsible Fatherhood and Family Revitalization, located in Washington, D.C., provides direct services to low income, non-custodial fathers. The program's goal is to "recapture" the responsible father figure and bring him back into the family structure to provide leadership, economic and social support, love and nurturing. Services provided include: technology management and communication, employer connection, a "people to jobs" transportation network, car donations and repairs and automotive training.

Los Angeles County Private Industry Council

Los Angeles County's Noncustodial Parent to Work (NCPtW) Project will assist

long-term TANF recipients end their welfare dependency by increasing child support payments from 1,625 noncustodial parents of TANF supported children. To do so, the project plans to help unemployed noncustodial parents find unsubsidized employment, and help underemployed noncustodial parents increase their earnings -- enabling them to pay more child support.

Innovative features of this project include developing both parents' capacity to financially support their children; bringing together a wide range of public and private agencies; addressing noncustodial parents' legal issues; providing noncustodial parents with access to information concerning child support; and providing peer support groups to work to change noncustodial parents' attitudes about child support and child rearing.

DeKalb Economic Opportunity Authority

This project will be conducted as an integral part of the DeKalb Workforce Center, which is the county's state-of-the-art One-Stop center. The program will be tied into the County's network of five Family Resource Centers, three public housing sites and two Head Start/Family Development Centers. These centers will be important for recruiting and are located in DeKalb's most impoverished communities.

A range of services will be provided to assist non-custodial parents in retaining employment and supporting their children. This project is an example of how One-Stop centers can be utilized to provide services. The specific services include: assessment (including commitment to responsible fatherhood); substance abuse treatment; legal assistance; job readiness and work maturity (including attitude and behavioral issues, workplace behavior, employer expectations, dress, interpersonal skills, anger management, interviewing skills, job search techniques, and coping with stress); parenting skills; case management and job coaching;

post-placement training (including literacy and GED preparation, occupational skills training); ongoing transitional support (peer support, job clubs, and case management).

City of Minneapolis

The Fostering Actions To Help Earning and Responsibility (FATHER) Program focuses on achieving self-sufficiency for noncustodial fathers in Northside, Camden, Phillips, Central and Powderhorn, Minnesota. The program is an innovative attempt to integrate both family and employment services for noncustodial fathers. Participants will have access to job counselors, a database of job openings and transportation that will help individuals from the city reach jobs in the suburbs. Additionally, child support enforcement officials will work to create a flexible child support payment plan and encourage fathers to develop and maintain strong emotional bonds with their children.

Private Industry Council of Milwaukee County

Welfare to Work Milwaukee is a collaborative project of the Private Industry Council of Milwaukee County and the five local agencies responsible for the implementation of Wisconsin Works in the county's six regions. The project addresses the long-term needs of participants, including noncustodial parents whose legal problems combined with poor academic and work skills bar them from sustained employment. The project uses community-based vendors and performance based contracts. Legal services are provided in addition to job placement and post employment services.

Houston Works

Houston Works is the workforce development entity for the City of Houston and is a collaborating with the Houston Community College System, Texas Southern University,

Southwest Memorial Hospital, Continental Airlines, SEARCH Homeless project, HUD, Baylor College of Medicine and the Houston Housing Authority. Participants receive job readiness counseling; temporary and permanent job placement services, post-employment and academic enrichment services. Participants also receive life skills, case management and family based assistance and counseling, including medical services and transportation services.

Eastern Workforce Development Board Inc, Muskogee, Oklahoma

This project will expand and supplement the Welfare to Work formula program, targeting non-custodial parents. It will develop an intensive job retention and employer incentive program. The project uses a case management approach and leverages resources from other training programs to serve children and other family members of participants. The program plans to establish an independent Employee Assistance Program for employers to help retain new workers.

Lessons Learned

Based on our experience to date with the Welfare to Work program, and previous demonstrations, research and programs, I believe there are certain principles that should govern our approach to serving noncustodial fathers. We have attempted to incorporate these principles into our Welfare to Work reauthorization proposal, which I will discuss in a moment.

Improving the employment and earnings of noncustodial fathers is a precondition for substantially raising the resources they provide to their families. This requires interventions that address the many labor market problems and barriers these fathers face, as well as turnover and upward mobility problems. Thus, a wide range of services and approaches are important.

Early intervention and a formal commitment of the noncustodial parent are important.

Fathers who feel that they do not have anything to contribute to the family often do not stay connected to their family. We know that early intervention is crucial to establishing paternity, to helping men assume responsibility for their children and to increasing access and visitation. The most promising strategy to assist low income noncustodial fathers in becoming better parents and productive workers is to intervene early with a broad array of employment services and interventions that are designed to promote family and job stability. Such interventions must help these fathers accept the responsibility and obligation of supporting their children.

We have a window of opportunity right now, since labor markets are very tight and

employers are seeking new sources of workers. The poor skills and criminal records that many poor fathers bring to the labor market are major disincentives to employers hiring them under the usual circumstances. However, many employers are experiencing high job vacancy rates and report difficulties finding workers. Many employers seem more open to hiring those with disadvantages. This is clearly true for welfare recipients and is likely true for low-income fathers.

Appropriate work-focused employment services are essential. It is important to develop

a range of services that combine work and skill building. Experience indicates that non-custodial fathers want income producing employment quickly. On-the-job training is a particularly effective strategy for this group of workers. Further attention needs to be given to developing an enhanced on-the-job training strategy for non-custodial fathers.

Post-employment services that are sustained over a period of time are important. Most

noncustodial fathers work sporadically or part-time and few have full-time employment on a year round basis. Post employment services are critical to help the fathers keep their jobs and increase their wages.

Programs need to stress improvements in parenting skills, support for partnering, peer support, and the like. It appears that fathers benefit from services focused on conflict

resolution, parent-child relationships, and information about the child support system.

Partnerships between the workforce investment system and the child support system are beneficial. It is important to build local partnerships to support fathers. If programs are

to increase employment and increase child support, close collaboration between the workforce development agency, the community based providers, and the child support system is necessary.

Providing increased employment services to non-custodial fathers is essential to reducing poverty among children. Chronically unemployed, under employed and uneducated fathers with criminal records, substance abuse or other such problems, living apart from their children and the mothers of those children, are unlikely to be able to assume the responsibility of a nurturing and supportive parent. To assume such responsibility requires stable employment, which in turn requires skill development, accompanied by the supportive and family services necessary to succeed in the labor market and society.

The Welfare to Work Amendments of 1999

These lessons and others we have learned from the first two years of the Welfare to Work experience are the basis for the bill introduced by Representative Cardin last week as H.R. 1482, the Welfare to Work Amendments of 1999. These amendments reflect the Administration's

proposal and are intended to maintain the focus of the Welfare to Work program on the hardest-to-serve welfare recipients, while expanding employment opportunities to help low-income fathers better support their children.

The primary features of the program are retained -- including the focus on work, targeting resources to individuals and communities with the greatest need, and administration through the locally administered, business-led workforce investment system. There are several important enhancements to the current law.

First, the amendments simplify the eligibility criteria and provide greater flexibility to States and localities to provide services to additional categories of hard-to-employ welfare recipients and noncustodial parents. Concerns have been raised by State and local officials and program operators that the current eligibility criteria are too complex and narrow, with the result that a significant proportion of the least job ready welfare recipients and noncustodial parents are excluded from participation. Specifically, the current law requires that at least 70 percent of funds must be expended to assist participants who have at least two of three specified barriers to employment and that the recipient or minor child be a long-term recipient.

The proposed amendments provide for separate eligibility requirements for recipients and noncustodial parents. With respect to recipients, while retaining the requirement for long-term reciprocity, the amendments provide that they must meet at least one rather than two specified barriers to employment. In addition, the amendments simplify the first specified barrier to employment, which currently requires that the recipient has failed to complete secondary school or obtain a GED and has low skills in reading or math. There have been many reports that due to past practices, such as social promotion, a significant number of recipients who have diplomas

still have low basic skills and those low skills are a major barrier to employment. Therefore, the amendments divide these criteria into two separate barriers that allow assistance to recipients who lack a high school diploma (or a GED) or have reading, computing or math skills at or below the 8th grade level. The amendments also add recipients with disabilities, recipients who are homeless, and recipients who are victims of domestic violence to the categories of recipients with employment barriers who may be served under the Welfare to Work program.

With respect to noncustodial parents, the new criteria provide that they be unemployed, underemployed, or having difficulty paying child support obligations, and that the minor child of the noncustodial parent meets the current requirements for long-term reciprocity, is eligible for or receiving TANF benefits, has received TANF benefits within the preceding year but is no longer receiving benefits, or is eligible for or receiving Food Stamps, Supplemental Security Income or Medicaid. In determining the eligible noncustodial parents to be served, a preference is to be provided for those parents with minor children who are long-term recipients. While providing greater flexibility to States and localities, these criteria effectively link eligibility for services to both the needs of the noncustodial parent and the child.

Second, the amendments provide a greater focus on services to noncustodial parents to better enable such parents to contribute child support payments and other assistance to their children. To promote these objectives, the amendments provide that at least 20 percent of the formula funds allotted to a State are to be used to serve noncustodial parents. This threshold may be met through any combination of expenditures under both the 15 percent State reserve and the 85 percent of funds allocated to local areas under the substate formula. The State plan is to describe how these projects will be coordinated to accomplish this result. If a State submits a

waiver request and provides sufficient justification to the Secretary, the Secretary may reduce or eliminate the threshold. However, it is expected that waivers would only be granted under unusual circumstances, with the elimination of any threshold unlikely to be approved.

In addition, the amendments add an important feature to strengthen the commitment of the noncustodial parent and the Welfare to Work program to increased child support. Each noncustodial parent participating in the program is to enter into an individual responsibility contract with the local Welfare to Work program and the State child support agency under which the noncustodial parent commits to cooperate in the establishment of paternity and in the establishment or appropriate modification of a child support order, to make regular payments of child support, and to participate in services that the program reciprocally commits to provide to assist the noncustodial parent in finding and keeping employment. While the custodial parent would be encouraged to cooperate in these efforts, in order to protect such parents and their children who may be at risk of domestic violence, the amendments would provide that the Welfare to Work program may not require their cooperation. This contract makes clear the expectations and responsibilities of the parties involved and provides a framework for attaining the program's objectives.

By expanding eligibility, providing a 20 percent spending floor, and incorporating personal responsibility contracts, these amendments would build on the existing program to ensure the establishment of an infrastructure in each local area for providing effective services to noncustodial parents. The amended program incorporates the previously described lessons learned in serving this population.

In addition, the Welfare to Work Amendments of 1999 would enhance current law by:

- Increasing resources to Indian tribes from the current 1 percent of the total to 3 percent, and authorizing Indian tribes to apply directly to the Department of Labor for Welfare to Work Competitive Grants.
- Improving resource allocation by recapturing unallotted formula funds for competitive grants in the subsequent year, and providing a preference in awarding these funds to those local applicants and Indian tribes from States that did not receive formula grants.
- Streamlining reporting requirements through the Department of Labor.
- Promoting best practices by reserving funds for technical assistance, including disseminating innovative strategies for serving noncustodial parents.

In sum, these amendments would reauthorize and enhance the WtW program. While our welfare reform efforts have resulted in some important early successes, much remains to be done. Enactment of the Welfare-to-Work Amendments of 1999 would provide significant opportunities to the hard-to-employ welfare recipients to make the transition to stable employment and assist noncustodial parents in making meaningful contributions to their children's well-being.

Madam Chairman, this concludes my formal testimony. We need to work together in a bipartisan manner to help the hardest-to-serve welfare recipients, noncustodial fathers, and their children. I look forward to working with you and other members of the Subcommittee on this important subject.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:25-APR-1999 21:27:47.00

SUBJECT: Draft Outline of Gun Bill

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

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

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

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

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

TEXT:
BR:

Here's my first take on this. I'm not sure if you want to lay things out this way or not. Let me know what you think.

Two points: (1) The explosives piece is not totally new. It was burried in our international crime bill that received very little attention. (2) I imagine you'll need to raise the long guns piece w/Podesta and the rest of the WW management types. Controversial stuff, but definately gets to the heart of the whole issue. If we don't support the long guns piece, we'll have to come up w/some language to cover bombs, destructive devices. They're captured by the definition of "firearms," but not by McCarthy's assaults provision.

jc3

===== ATTACHMENT 1 =====
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THE GUN ENFORCEMENT AND ACCOUNTABILITY ACT
April 27, 1999

Today, President Clinton will propose new legislation to strengthen federal firearms laws and make it more difficult for kids and criminals to have access to guns and explosives. The President's proposed bill -- The Gun Enforcement and Accountability Act -- will include new proposals to ban juvenile possession of semi-automatic assault rifles [and other long guns], require Brady background checks for the purchase of explosives, and help law enforcement trace more crime guns to their source.

BUILDING ON THE SUCCESS OF THE BRADY LAW. Since taking effect in 1994, the Brady Law has prevented over a quarter of a million felons, fugitives, mentally unstable persons, and other prohibited purchasers from buying handguns. In November 1998, the National Instant Criminal Background Check System (NICS) **took effect**, allowing access to a fuller set of records that law enforcement officials can use to conduct checks of all prospective gun purchases -- not just for handguns. To date, NICS has conducted over 2.6 million background checks on gun purchasers, and has stopped over 27,000 illegal gun sales. The President's legislation will propose strengthening the Brady Law by:

- **Extending the Brady Law's requirements to purchases of explosives.** Under current law, no Brady background check is required to buy explosives. The President's bill will help cut off easy access to explosives by requiring Brady background checks before the sale of explosives, and by extending the same prohibitions in our gun laws to prospective purchasers of explosives. The bill will also prohibit convicted felons from purchasing any quantity of black powder, which is used to make most pipe bombs, and require explosives dealers to keep records of their sales of black powder.
- **Closing the gun show loophole on Brady background checks.** In 1998, there were an estimated 4,442 gun shows held in states across the country. An estimated 25-50 percent of the firearms sold at these gun shows are sold by unlicensed sellers and not subject to background checks. As a result, gun shows can provide a forum for illegal firearms sales and gun trafficking. In fact, a recent review by the Bureau of Alcohol, Tobacco, and Firearms (ATF) of 314 gun show investigations found that 46 percent of these investigations involved the purchase or sale of firearms by felons, and 34 percent involved the sale of firearms later used in serious crimes, including homicides. To end this policy of firearms being sold at gun shows on a "no questions asked" basis, the President's bill will require : (1) Brady background checks on all firearms transferred at gun shows, with the assistance of federally-licensed dealers; (2) Vendors to report information on firearms sold at gun shows to the ATF, so that they can be traced by law enforcement if they are later used in crimes; and (3) Gun show promoters to register with the ATF and notify it of all gun shows.
- **Making the Brady waiting period permanent.** The Brady Law's waiting period requirement expired last November when the NICS took effect. Although the NICS has

generally improved law enforcement's ability to conduct background checks, a permanent waiting period will allow local law enforcement officers to check additional, non-computerized records, as well as provide cooling-off time for handgun purchases. Accordingly, the President's legislation will: (1) require a minimum 3-day waiting period for all handgun purchases; (2) add up to an additional two days to the waiting period if law enforcement officers need more time to clarify arrest records; and (3) require gun dealers to notify local law enforcement officials of all proposed handgun purchases.

- **Extending the Brady Law to violent juveniles.** Although violent youth convicted in adult courts are barred from owning firearms as adults, the same is not true for youth convicted of serious violent crimes in juvenile court. Violent juveniles should be treated as adults for their adult crimes, and stopped from getting weapons to hurt again. The President's legislation will permanently ban all violent juveniles from buying guns, so that they cannot purchase a gun on their 21st birthday.

RESTRICTING YOUTH ACCESS TO GUNS. Keeping guns out of the hands of juveniles has been one President Clinton's top priorities. He fought for and signed legislation prohibiting the juvenile possession of handguns, requiring "zero tolerance" for guns in schools, and establishing the Youth Crime Gun Interdiction Initiative (YCGII) to help identify and arrest adults who traffick guns to children. The Gun Enforcement and Accountability Act will do even more to restrict unauthorized youth access to guns by:

- **Banning juvenile possession of semiautomatic assault rifles [and other long guns].** In 1994, President Clinton fought for and signed the Youth Handgun Safety Act, which generally banned the possession of handguns by juveniles under the age of 18, and prohibited adults from transferring handguns to a juvenile -- except for in limited circumstances and with written parental consent. It remains legal, however, for juveniles under the age of 18 to possess -- and if they are over 18 to buy -- semiautomatic assault rifles manufactured before the Assault Weapons Ban went into effect [as well as rifles, shotguns and other long guns.] The President's bill will propose extending the provisions of the Youth Handgun Safety Act to assault rifles [, shotguns, and all long guns.]
- **Holding adults responsible for child access to guns.** Child Access Prevention (CAP) laws promote gun safety and responsibility by holding adults responsible if they allow children easy access to loaded firearms. According to a study published by the Journal of the American Medical Association, CAP laws help reduce fatal unintentional shootings by an average of 23%. The President's legislation will impose felony penalties on adults who knowingly or recklessly allow a child to have unlawful access to a gun that is later used and caused death or injury.
- **Requiring child safety locks for guns.** Child safety locking devices can reduce the unauthorized use of handguns, by a child at play or a teen looking to commit a crime. Many youth have to look no further than their own home to get their hands on a gun: it is estimated that one third of all privately-owned handguns are left both

loaded and unlocked. To address this problem, the President's bill will require federally-licensed firearms dealers to provide a child safety lock with every gun they sell.

- **Increasing penalties for transferring guns to juveniles.** The President's bill will increase penalties for adults who transfer handguns to juveniles knowing that they will be used in a violent crime -- establishing a new mandatory minimum sentence of at least 3 years and up to 10 years.

CRACKING DOWN ON ILLEGAL GUN TRAFFICKERS In 1996, President Clinton launched the Youth Crime Gun Interdiction Initiative in 17 cities to help trace crime guns to their source, as well as identify and arrest the adults who traffick firearms to our children. Since that time, YCGII has been expanded to 20 more cities and conducted more than 200,000 traces for local law enforcement. Additionally, over the last 2 years the President has proposed hiring more than 280 new ATF agents and more than 40 new federal prosecutors to arrest gun traffickers and violent criminal, and crackdown on illegal gun sales.

- **Allowing law enforcement to trace all firearms used in crimes.** Under current law federally-licensed gun dealers are not required to keep any records pertaining to the sale of used firearms. As a result, it is much more difficult for law enforcement to trace used firearms that are later used in crimes. The President's legislation will require that federal gun dealers keep the same records for both new and used gun sales -- and report the manufacturer, model, and serial number of all used guns sold to ATF's National Tracing Center.
- **Doubling the Youth Crime Gun Interdiction Initiative (YCGII).** Over the past 2 years, the President has expanded the YCGII initiative to 37 cities -- helping them to trace all crime guns to their source, to identify illegal gun markets, and to crackdown on gun traffickers. Last year, ATF initiated over 300 investigations in these cities, which involved over 3,300 illegally trafficked firearms. The President's bill will increase the number of cities participating in YCGII over the next 4 years to a total of 75
- **Increasing penalties on gun kingpins.** To send a strong message to gun runners that their illegal gun trafficking will not be tolerated, the President's bill will double the maximum penalty for illegally selling firearms without a license without a license (from 5 to 10 years of imprisonment), and enhance the current penalty for offenses where over 50 firearms have been illegally trafficked.

STRENGTHENING THE ASSAULT WEAPONS BAN. In 1994, the President fought for and signed into law legislation to ban the manufacture and importation of the 19 deadliest assault weapons, their copies, and large capacity ammunition clips. Last year, the President also took action to ban the importation of over 50 models of modified assault weapons. The President's bill strengthens the assault weapons law by:

- **Banning the importation of all large capacity military clips.** Although the 1994

assault weapons law banned the future domestic manufacture and importation of large capacity military magazines (LCCMs) that hold more than 10 rounds of ammunition, LCMMs manufactured before the law's enactment were grand fathered. Because of the difficulty in determining when LCMMs manufactured by foreign companies were made, it has become relatively easy for foreign gun manufacturers to circumvent the ban on LCMMs. As a result, the President's bill will close this loophole by banning the importation of all large capacity clips -- regardless of when they were manufactured.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-APR-1999 10:44:13.00

SUBJECT: Draft Statement

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

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

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

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

TEXT:

I would say in last sentence, "Congress should do the responsible thing and enact legislation to confirm FDA's authority and take this matter out of the courts."

----- Forwarded by Barry J. Toiv/WHO/EOP on 04/26/99
10:41 AM -----

Laura Emmett
04/26/99 10:22:53 AM
Record Type: Record

To: Barry J. Toiv/WHO/EOP@EOP
cc:
Subject: Draft Statement

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

TEXT:

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POTUS Statement on Supreme Court Tobacco Decision
April 26, 1999

I am very pleased that the Supreme Court has agreed to take up the case regarding the Food and Drug Administration's regulation of tobacco products. Almost three years ago, the FDA put in place a regulation to protect our children from tobacco, which the tobacco companies challenged in court. I remain firmly committed to the FDA rule, which will help stop young people from smoking before they start by eliminating advertising aimed at children and curbing minors' access to tobacco products. Every day, 3,000 young people become regular smokers and 1,000 will have their lives cut short as a result. If the leadership in Congress would act responsibly, it would act now to confirm FDA's authority and take this matter out of the courts.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-APR-1999 10:46:06.00

SUBJECT: LRM MNB53 - - LABOR Report on S385 Safety Advancement for Employees (SAFE)

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

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

TO: Cordelia W. Reimers (CN=Cordelia W. Reimers/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN

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

TO: Lisa B. Fairhall (CN=Lisa B. Fairhall/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

TO: Iratha H. Waters (CN=Iratha H. Waters/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

TO: Courtney B. Timberlake (CN=Courtney B. Timberlake/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

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

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

TO: John E. Thompson (CN=John E. Thompson/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

READ:UNKNOWN

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

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

CC: OPBRE (CN=OPBRE/OU=ONDCP/O=EOP [ONDCP])
READ:UNKNOWN

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

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

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

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

CC: ola (ola @ opm.gov @ inet [UNKNOWN])
READ:UNKNOWN

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

CC: jwedekind (jwedekind @ nlr.gov @ inet [UNKNOWN])
READ:UNKNOWN

TEXT:

NOTE: DEADLINE IS 4 p.m. TODAY.

EOP staff: you will not receive a hard copy of this LRM. The attachment is approximately 9 pages long.

----- Forwarded by Melissa N. Benton/OMB/EOP on 04/26/99

09:29 AM -----

LRM ID: MNB53

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Monday, April 26, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: Janet R. Forsgren (for) Assistant Director for
Legislative Reference

OMB CONTACT: Melissa N. Benton

PHONE: (202)395-7887 FAX: (202)395-6148

SUBJECT: LABOR Report on S385 Safety Advancement for Employees
(SAFE) Act of 1999

DEADLINE: 4 p.m. Monday, April 26, 1999

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the

program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: The Senate Health, Education, Labor, and Pensions Committee is scheduled to consider S. 385 on Wednesday, April 28th.

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Courtney B. Timberlake
Janet R. Forsgren

LRM ID: MNB53 SUBJECT: LABOR Report on S385 Safety Advancement
for Employees (SAFE) Act of 1999
RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

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

You may also respond by:

- (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
- (2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

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

FROM: _____ (Date)
_____ (Name)
_____ (Agency)
_____ (Telephone)

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

- _____ Concur
- _____ No Objection
- _____ No Comment
- _____ See proposed edits on pages _____
- _____ Other: _____
- _____ FAX RETURN of _____ pages, attached to this response sheet

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

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```

draft -- March 10, 2010

The Honorable James Jeffords
Chairman
Committee on Health, Education, Labor and Pensions
United States Senate
Washington, DC 20510-6300

Dear Chairman Jeffords:

I understand that the Committee on Health, Education, Labor and Pensions has scheduled a mark-up session for April 28, 1999 on S. 385, the "Safety Advancement for Employees Act of 1999" (SAFE Act).

I am writing to reiterate the Department's view that the SAFE Act, if passed, would unintentionally undermine OSHA's ability to protect workers. As Assistant Secretary for Occupational Safety and Health Charles Jeffress testified on March 4, 1999, before the Subcommittee on Employment, Safety and Training, if S. 385 is passed by Congress and presented to the President, I will recommend that he veto the legislation.

The effort to enact S. 385 ignores the very real successes that have been achieved since the bipartisan sponsorship and enactment of the Occupational Safety and Health Act nearly 30 years ago. The successes of the 1990's are particularly compelling. Workplace injuries and illnesses have declined for five consecutive years. The rate for 1997 was the lowest since the Bureau of Labor Statistics began reporting this information in the early 1970s. OSHA and the OSH Act have been catalysts for these achievements by private sector employers and workers.

OSHA is having success through results-driven enforcement efforts, compliance assistance and standard setting. The agency has developed a broad range of successful partnership programs that promote cooperative efforts among employers, workers and government.

OSHA also is making its enforcement programs smarter and fairer by spending more time at the most hazardous workplaces and less time at safer ones. Finally, OSHA is measuring results, where possible, not by numbers of citations or penalties, but by real improvements in the lives of working people, such as reduced injury and illness rates. The five-year decline in injury and illness rates is evidence that this combination of approaches is working. The SAFE Act focuses on old problems that OSHA has moved beyond, not new challenges the agency, workers and employers will face in the future.

draft -- March 10, 2010

We all agree that more must be done to protect workers. Too many workers continue to die or suffer injuries or illnesses because of work-related causes. Any legislation must increase workplace safety and health. The Department is concerned that S. 385 would, instead, place workers at increased risk.

The overwhelming majority of discussion relating to S. 385 has focused on the third-party certification provisions of the bill, about which the Department has made its position clear. As we have previously stated, private consultants, as a whole, provide a valuable service to employers and execute their responsibilities in a highly professional manner. OSHA encourages employers to use consultations to help detect and control hazards. But S. 385 provides only a marginal incentive for employers to hire third-party consultants, while creating significant conflict-of-interest problems by enabling employers to hire private, for-profit consultants to, in effect, exempt them from OSHA penalties. The SAFE Act also limits the accountability of consultants and employers. Under S. 385, OSHA has little recourse against consultants whose improper certifications put workers at risk. The SAFE Act also allows employers and consultants to negotiate the terms and time frames of compliance and fails to guarantee that all hazards will be corrected before a certificate of compliance is granted.

Although the Department is pleased that S. 385 emphasizes the importance of safety and health programs, it differs from OSHA's Safety and Health Achievement Recognition Program (SHARP) in significant ways. For example, while OSHA's SHARP program enables employers to receive a one-year exemption from programmed inspections, it does not provide a penalty exemption. In addition, employers participating in SHARP only receive their exemption from programmed inspections after they have received significant attention from OSHA and demonstrate the highest commitment to safety and health. Moreover, if OSHA is called in for a complaint or fatality investigation and discovers uncorrected violations, the SHARP employer is subject to citation and penalties.

In addition to the SAFE Act's third-party certification provisions, other provisions of the bill pose a significant threat to workplace safety and health. The Department's position on each of those provisions is detailed in the attached analysis. For the convenience of the Committee, I will highlight some, but by no means all, of the most significant issues that concern the Department:

draft -- March 10, 2010

Expanded Inspection Methods. Although investigation of complaints by telephone, facsimile and other similar methods is desirable in many situations, section 6 would enable those methods to be used at the expense of the fundamental worker right to an inspection.

Worksite-Specific Compliance. Section 7, which would require OSHA to vacate citations if the employer had at least as effective a means of protecting its employees as those required by the OSH Act, could render OSHA standards academic. This new employer defense could convert every enforcement action into a time-consuming litigation effort, imposing substantial burdens on agency resources and the court system. OSHA standards would become guidelines for open debate each time an employer received a citation.

Technical Assistance. The Department is concerned that section 8 runs counter to the agreement reached last year to codify OSHA's consultation program. Last year, the Congress enacted H.R. 2864 with bipartisan and Administration support and codified OSHA's consultation program with enhanced employee protections. The Department was proud of that cooperative effort and believes it is premature to amend this new law. In addition, the fee-for-service element of S. 385 would give priority to those who can afford to pay for consultation, not those who need it most. Consultation is and should remain prioritized for small, high-hazard industries, not for large, wealthy ones.

Discretionary Compliance Assistance. Section 11 would allow OSHA to issue warnings in lieu of citations, even for violations that have killed employees, as long as the employer agrees to abate the violation promptly. The Department believes that such unlimited discretion is inappropriate and sends a message that employers need not take preventive steps to protect their workers prior to an OSHA inspection.

The attached analysis discusses these issues in greater detail, along with the Department's position on Sections 4, 5, 9 and 10 of the bill.

Mr. Chairman, S. 385 would greatly diminish the ability of the Occupational Safety and Health Administration to administer and enforce the OSH Act. The bill would undermine OSHA's effort to achieve the Act's stated purpose: "to assure so far as possible every working man and woman in the Nation safe and healthful working

draft -- March 10, 2010

conditions and to preserve our human resources." The SAFE Act would result in an increased risk of occupational injuries and illnesses, jeopardizing the lives and well-being of our Nation's workers and their families. This legislation, drafted in the name of retooling and augmenting compliance-related resources, is a step backward and would require OSHA to devote valuable resources to monitoring private consultants rather than workplace safety and health. Accordingly, the Administration opposes its enactment.

The Office of Management and Budget advises that there is no objection to the submission of this report and that enactment of S. 385 would not be in accord with the Administration's program.

Sincerely,

Alexis M. Herman

Enclosure

draft -- March 10, 2010

Enclosure

DEPARTMENT OF LABOR ANALYSIS OF S. 385

April 1999

Section 3. Third Party Consultation Services Program

Section 3 requires the Secretary to establish a program to “qualify” individuals who could then serve as consultants to employers to assist them in identifying and correcting safety and health hazards in their workplaces. An employer who contracted for and received such services and who was declared by the consultant -- after the initial visit to the workplace, agreement on an Action Plan, and a possible follow-up “reinspection” visit -- to be in compliance with the Act, would be exempt from any assessment of a civil penalty under the Act for a period of one year, with certain limited exceptions.

The Department of Labor strongly opposes this section.

Initially, although we agree that employee safety and health are paramount, the Department is compelled to object to the new “purpose” that has been added to this section. The new “purpose” statement would codify the erroneous opinion that all employers are unable to read, understand and comply with the OSH Act. It would further codify the opinion that OSHA is unable to satisfy the compliance needs of each employer and employee within its jurisdiction. The addition of such sentiments to the OSH Act is, at best, inappropriate.

The incentives created by coupling the third party consultation provision with a penalty exemption leave the program extremely vulnerable to conflict-of-interest and accountability problems. At the most obvious level, a consultant paid by an employer would be likely to feel pressured to approve the employer’s program or to fail to recommend costly engineering controls even when they were necessary to prevent an injury or illness. Likewise, businesses may feel obligated to purchase unnecessary services proposed to them by their consultant in order to ensure being granted a certificate of compliance. In addition, the provision permitting employers and consultants to agree upon the terms of the Action Plan would invite abuses that could result in seriously delayed abatement, if abatement is agreed to at all. Further, there is no provision in the bill that would prevent an employer from utilizing one of its own employees, or a former employee, to provide consulting services. Though this is no doubt not the intent of the bill’s authors, section 3 would in effect enable employers to “purchase” immunity from OSHA inspections and penalties.

Reliance on the private sector for compliance declarations, coupled with exemptions from the possibility of civil money penalties for those employers who receive such declarations, would leave the agency without sufficient recourse if an inspection is necessary within the exemption

draft -- March 10, 2010

period. For example, even if conditions in a certified workplace had undergone major change during the exemption period, a penalty could only be levied if OSHA could demonstrate the occurrence of a “fundamental change in the hazards” of the workplace or that the employer had not made a good faith effort to remain in compliance. The only large-scale study to date that correlates worksite injury data with worksite inspection history over time has shown that inspections in which penalties are assessed result in a significant reduction in injuries at the inspected site for three years following the inspection, and that inspections without penalties have no appreciable impact (Wayne Gray and John Scholz, “Does Regulatory Enforcement Work? A Panel Analysis of OSHA Enforcement,” *Law and Society Review*, pages 177-213 (July 1993)).

The new version of the SAFE Act has been modified to include a safety and health program component. This is a positive addition to the bill, but does not cure flaws inherent in the third party consultation proposal. OSHA’s Safety and Health Achievement Recognition Program (SHARP), part of OSHA’s consultation program, exempts employers from a *programmed inspection only* after the employer requests and receives a full-service consultation visit, and works with the consultation program for a period of at least a year from the date of the initial visit to correct and abate all hazards, implement a fully effective worksite safety and health program and lower the lost workday and accident rates to a level at or below the national average for their industry. Unlike S.1237 in the 105th Congress, S. 385 incorporates a requirement for employers to implement a safety and health program before they can receive a certificate of compliance. However, unlike OSHA’s SHARP program, there is no guarantee that all hazards will be abated before a certificate is granted. In addition, the ability of private, for-profit consultants to provide *penalty* exemptions, rather than the exemptions from programmed inspections that the SHARP program provides, gives those private, for-profit consultants power well beyond any power granted to an OSHA compliance officer or a state consultant. SHARP companies never receive blanket exemptions from penalties. Finally, under the SHARP program, OSHA has the final say over whether companies should receive SHARP recognition. This system provides an additional check to ensure that a workplace is safe and has an effective safety and health program before it becomes exempt from a *programmed inspection*.

The Department remains concerned that the bill is completely silent about a consultant’s obligations when an employer is found NOT to be in compliance. This means that the consultant then has the option of refusing to provide a declaration, which leaves the employer free to seek out another consultant. While the bill now requires the consultant to identify violations of the OSH Act and possible corrective measures, there is still no clear requirement that employers abate the identified hazards or that consultants report to OSHA in the event of an employer’s refusal to abate. Moreover, because reinspections are not necessarily required, there is no way for the consultant, employees or OSHA to verify either abatement or whether the elements of an effective safety and health program have been fully implemented.

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The Department is concerned that the bill could allow an employer to receive a certificate of compliance even if it has not yet completed the process of hazard abatement. This would allow an employer that is out of compliance with the law to be declared in compliance. The problem is further compounded because an employer with a certificate of compliance who has not yet abated hazards identified in the written plan could not be penalized by OSHA for one year. Finally, unlike OSHA's abatement verification rule, the employer would not have to "inform affected employees and their representatives about abatement activities" the employer had promised to undertake. Elimination of a mandatory reinspection requirement worsens this problem. Without reinspection, an employer could obtain a certificate without having to show that it has abated a single hazard. In the event that a reinspection does actually occur, there is no provision for further action if the employer has not satisfied all the elements in the consultation report.

In addition, relying on the private sector for such certifications, while at the same time exempting the employer's worksite from the possibility of a penalty, would deprive the agency of sufficient "quality control" over both certifications and the safety and health audits performed by Federally-sanctioned, certified individuals. The only oversight granted to OSHA under this bill is meaningless. The bill requires OSHA to maintain a registry of safety and health consultants it deems qualified, but hampers the agency in the event problems occur. In addition, maintaining a registry would place a substantial burden on the agency's already limited resources. Those resources should be targeted toward making workplaces and workers safer, not toward policing a new army of consultants.

These problems are compounded because the disciplinary action anticipated by this legislation is insufficient to redress or deter the abuses for which S.385 creates an incentive. Removal of a consultant from participation in the program is simply not enough to prevent or punish abuses such as fraud or collusion. Further, the circumstances under which an employer or consultant could be disciplined are so limited that the bill would permit a consultant to continue to participate where injuries and illnesses continue to occur as a result of incompetence or simple negligence. In addition, it appears that a consultant's failure to identify a hazard would exempt the employer from penalties for that hazard.

Further compounding these problems is the bill's failure to clearly identify the minimal qualifications for a consultant. For example, section 8A(b)(2)(A) identifies practitioners of certain state-licensed occupations as "eligible to be qualified" as consultants, but neglects others and does not specify what experience in hazard identification and occupational safety and health eligible consultants must have. OSHA is further concerned that this provision requires states to create licensing programs for safety and health professionals. We believe that this requirement may impose a significant burden upon the states.

The Department is unaware of any concrete evidence that a third party certification program would be successful. At the outset of this Administration, the idea of third-party audits was

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raised at a meeting of OSHA's stakeholders, where it met with little enthusiasm from either labor or business representatives. More recently, a State of North Carolina survey demonstrated a resounding preference on the part of employers for an OSHA consultant over a private consultant. Cost, as well as suspicion that the private consultant might attempt to sell an employer unnecessary services, were among the reasons given in support of OSHA consultants.

Section 4. Establishment of Special Advisory Committee

Section 4 would require the Secretary to establish a new advisory committee consisting of employees, employers, members of the general public, and an official from a state plan state. The committee would advise and make recommendations to the Secretary concerning the establishment and implementation of third-party consultation services programs under section 8A of the bill.

Section 7(a) of the current statute establishes the National Advisory Committee on Occupational Safety and Health (NACOSH), which exists to make recommendations on matters relating to the administration of the current Act. Mandating the establishment of a new advisory committee dealing with the new consultation program in section 8A of the bill would duplicate part of the existing jurisdiction of NACOSH and, as such, would be redundant and not in keeping with the concept of reinvention and streamlining. In the event the Secretary needs to consult with experts on the specifics of consultation programs, Sections 7(c)(1) and (2) of the OSH Act now give the Secretary broad powers to hire consultants and experts, and to utilize the services of experts from other Federal agencies and states. If the Secretary wishes to obtain advice through the instrumentality of an advisory committee, she may establish such a committee pursuant to the requirements of the Federal Advisory Committee Act.

Section 5. Continuing Education and Professional Certification for Certain Occupational Safety and Health Administration Personnel

Section 5 requires Federal employees who enforce the Act to meet the eligibility requirements established under new section 8A(b)(2) for third-party consultants. In addition, these employees must receive professional education and training every five years.

OSHA agrees that effective training of enforcement personnel is vitally important. OSHA and the State Plans conduct a wide range of training programs to ensure that compliance officers conduct fair and effective investigations.

The OSH Act is not industry-specific; it applies to a wide variety of workplaces throughout the nation. Therefore, it has been OSHA's experience that individuals with broad professional backgrounds become the best inspectors. During their first three years of employment, new

draft -- March 10, 2010

Compliance Safety and Health Officers (CSHOs) are teamed with experienced inspectors and are given over 250 hours of training on investigative techniques at the OSHA Training Institute (OTI) in Des Plaines, Illinois. Additional training is mandatory for experienced CSHOs at least once every three years. Finally, whenever new standards are promulgated, OTI offers specialized training in these standards.

As this discussion illustrates, OSHA does train and educate its employees, but not in a manner that matches the bill's inflexible requirements. We are concerned that the bill is unclear about which employees would be required to receive this training. For example, would the agency's attorneys be considered "responsible for enforcing this Act"? We are further concerned about the cost of providing the required training.

Finally, we note that the bill contains no specific training requirements for the consultants for the program created under section 5, whose inspections and reports may result in employer exemptions from civil money penalties.

Section 6. Expanded Inspection Methods

Section 6 of the bill would allow OSHA to investigate an alleged violation or danger by telephone or facsimile. The bill also states that OSHA is not required to conduct complaint inspections if "a request for inspection was made for reasons other than the safety and health of the employees of an employer" or if OSHA determines that workers are not at risk.

OSHA has two primary concerns about this section. First, although investigation of complaints by telephone, facsimile and other similar methods is desirable in many situations, these methods should not replace a worker's fundamental right to an inspection. In the past two years, OSHA has reduced the time from the filing of a complaint to the time hazards are abated by using telephone and facsimile methods for investigating *informal* complaints. In addition, several offices have experimented with these methods for investigating *formal* worker complaints, but only where the complaining worker agrees. However, these methods should not be allowed to interfere where a worker seeks to exercise his or her statutory right to an inspection.

Second, section 6 would allow OSHA to forgo a formal complaint inspection if it determines that the complaint was made for reasons other than safety and health -- even if the information provided by the complainant suggests that the workers in question may be facing substantial risk.

Again, the agency's determination as to whether to inspect following a formal complaint should be based on the likelihood that workers are at risk -- not on the motivation of the complainant. Where workers face substantial hazards, OSHA should act -- and is compelled by statute to act -- to protect them. Moreover, it would be very difficult for OSHA to determine the complainant's motivation. This exercise would consume scarce agency resources and delay inspections.

draft -- March 10, 2010

Ultimately, the agency should continue to inspect where it has reasonable cause to believe that workers are at risk.

Section 7. Worksite-Specific Compliance Methods

Section 7 would create an entirely new statutory defense to an OSHA citation, based on an employer's demonstration that employees were protected by alternate methods equally or more protective than those required by the standard the employer violated.

The OSH Review Commission and the courts have held repeatedly that when OSHA's standards require employers to adopt specific precautions for protecting employees, employers must comply in the manner specified. Under current law, employers have the right to select alternative means of compliance when literal compliance is impossible or would pose a greater hazard to employees. In "greater hazard" cases, the Commission requires an employer to show that a variance has either been sought or would be inappropriate.

Under these rules, the contest rate has remained relatively low; less than ten percent of all citations are currently contested. Under this provision of S. 385, however, virtually every employer cited for violations of the OSH Act or OSHA standards could claim that an alternative means of compliance was as effective as the standard in question. In effect, standards would become guidelines, subject to challenge -- and potential waiver -- in every individual contested case. This provision could seriously undermine OSHA's standards, turn every enforcement action into a costly and time-consuming variance proceeding, and impose substantial burdens upon agency resources, the OSH Review Commission, and the Federal courts.

Section 8. Technical Assistance Program

Section 8 amends the OSH Act's "Training and Employee Education" provision to require cooperative agreements between OSHA and States to provide consultation programs. The Department objects to amending the new consultation law Congress passed less than a year ago with bipartisan support after extensive negotiations between Congress and the Department ((P.L. 105-197, 112 Stat. 638 (July 16, 1998) (the "Occupational Safety and Health Administration Compliance Assistance Authorization Act of 1998"))).

We are particularly concerned with further amending the program in the way contemplated by section 8. Under section 8, the Secretary must establish a pilot program in three states for a duration of up to two years, the purpose of which would be to test a fee-for-service system. The fifty state agencies that already administer the consultation program have expressed very strong reservations about charging fees in the consultation program. The Administration shares these

draft -- March 10, 2010

concerns. Those who could pay would be visited first, defeating the philosophy that this service is aimed at small or highly hazardous businesses that cannot afford to hire other consultants.

Section 9. Voluntary Protection Program

Section 9 attempts to codify OSHA's Voluntary Protection Program, requiring the Secretary to establish cooperative agreements with employers, who would create and maintain comprehensive safety and health management systems. The bill requires enhanced OSHA efforts to include small businesses in the VPP. Participation in this program would result in exemptions from inspections and certain paperwork requirements.

OSHA has supported codifying the VPP program, but we do not support this provision as drafted. The VPP has traditionally been, and should remain, a program for *work sites*, not employers. Although there are references to "the worksite" in the section, this vital mainstay of the program must be emphasized. OSHA is also concerned that codification could jeopardize the high standards of the program currently in operation. As drafted, this provision does not reflect the idea that the VPP program is reserved exclusively for those employers who have demonstrated the highest commitment to worker safety and health. Ideally, any codification of this program should limit participation to employers who have truly superior safety and health records, but should allow OSHA the flexibility to define (and modify as necessary) the specific criteria for participation in the program. We further note that the bill does not include a program requirement for VPP participants to provide meaningful employee involvement in safety and health matters, which we believe to be an important component of the program. These changes must be made before OSHA would withdraw its objections.

Section 10. Prevention of Alcohol and Substance Abuse

Section 10 authorizes the Secretary to test employees and management for drugs and alcohol following any work-related fatality or serious injury. It also permits employers to institute their own testing programs conforming to HHS and Federal workplace guidelines. Testing is permissible on a for-cause basis, as part of a scheduled medical examination, where an accident involving actual or potential loss of human life, bodily injury, or property damage has occurred, during participation in a drug treatment program, or on a random basis.

OSHA strongly supports measures that contribute to a drug-free work environment and reasonable programs of drug testing within a comprehensive workplace program for certain workplace environments, such as those involving safety-sensitive duties, and which take into consideration employee rights to privacy. However, OSHA is concerned that it may not have the resources to oversee drug and alcohol programs.

draft -- March 10, 2010

Section 11. Discretionary Compliance Assistance

This section provides that the Secretary may issue warnings in lieu of citations where the violation has no significant relationship to safety or health or where the employer has acted in good faith to promptly abate the violation. The Secretary may not exercise this discretion where the violation has a "significant relationship to employee safety or health" or where the violation is willful or repeated.

Currently, the OSH Act provides that OSHA "shall" issue a citation for each violation it discovers during an inspection. This provision would change this provision to "may." As a practical matter, the impact of this proposed change is unclear. Federal case law demonstrates that OSHA possesses a greater degree of prosecutorial discretion than was recognized in the early years of the agency's existence. The agency has discretion under existing law to establish programs in which it does not issue a citation for every violation it finds. For example, OSHA has used this discretion to establish programs such as Maine 200.

Among other things, OSHA is particularly troubled by paragraph 3(B), which allows the issuance of a "warning in lieu of a citation" for violations that the employer "acts promptly to abate[.]" Even though it allows OSHA the discretion to issue citations in such circumstances, this provision may signal employers that they need not take preventive steps to protect their workers prior to an OSHA inspection. As such, this provision could undermine both the preventive purpose as well as the deterrent effect of OSHA's enforcement program.

Prompt abatement of hazards should be encouraged, but it should be encouraged through penalty reductions, not by eliminating any citations whatsoever for violations. Otherwise, employers who make good faith efforts to protect workers before an OSHA inspector arrives at their door will be treated the same as neglectful employers who have ignored their workers' safety until the inspection.

Finally, the limitations on the Secretary's discretion are so narrow that they could lead to outrageous results. For example, the Secretary's discretion is not limited to cases in which an employer has shown good faith by implementing a safety and health program or in which no employee has been killed or seriously injured because of the employer's violation. Rather, the bill authorizes the Secretary to issue a warning in lieu of a citation if the employer "acts promptly to abate the violation" even if the employer has a long history of previous violations and causes the death of several employees.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sean P. O'Shea (CN=Sean P. O'Shea/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:26-APR-1999 11:20:11.00

SUBJECT:

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

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

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

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

TO: Trooper Sanders (CN=Trooper Sanders/O=OVP@OVP [UNKNOWN])
READ:UNKNOWN

TO: Ron Klain (CN=Ron Klain/O=OVP@OVP [UNKNOWN])
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

READ:UNKNOWN

TO: Monica M. Dixon (CN=Monica M. Dixon/O=OVP@OVP [UNKNOWN])
READ:UNKNOWN

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

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

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

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

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

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

TO: Joseph P. Lockhart (CN=Joseph P. Lockhart/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

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

CC: Erica S. Lepping (CN=Erica S. Lepping/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TEXT:

Throughout the weekend, and continuing throughout this week, Cabinet Affairs hosts conference calls with representatives from those agencies involved in responding to the Columbine High School shooting. We will gather new information from Justice, Treasury, Education, HHS, and FEMA.

The Department of Education

INTERNAL INFO ONLY: The Department of Education received a request from the School Superintendent in Colorado over the weekend seeking officials to assist with long term recovery efforts. Today, Monday, April 26, DOEd is quietly organizing a team of five officials to travel to Colorado tonight. The following people will arrive tonight and help coordinate intermediate and long term efforts:

Bill Modzeleski - Dept of Ed, Safe and Drug Free Schools

Jamon Kent, Superintendent, Springfield, Oregon

Cathy Paine, Crisis Counselor, Springfield, Oregon

Annette Murphy, Oklahoma City, Oklahoma
(Ms Murphy now works for a Mental Health Organization, she was charged with implementing the Oklahoma City crisis plan after the bombing)

Marleen Wong, Los Angeles Public Schools

Marleen is an expert on responding to crisis. She helped with Oklahoma City, Springfield Oregon and several other disasters.

Other agencies continue to supply information as it becomes available. Please contact Kris or myself with any questions at 62572.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Iratha H. Waters (CN=Iratha H. Waters/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:26-APR-1999 12:00:25.00

SUBJECT: Scheduled Meeting

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

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

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

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

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

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

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

TEXT:

Please put on the calendar a meeting in room 260 w/Barbara Chow on ESEA
Tuesday at 12:30 - 1:30 other attendees will be Wayne Upshaw and the staff
from the Education Branch

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-APR-1999 12:10:31.00

SUBJECT: UPI story

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: 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:

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

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United Press International

April 26, 1999, Monday, BC cycle -10:31 Eastern Time

SECTION: Washington News

LENGTH: 1243 words

HEADLINE: UPI Focus) Court looks at the future of tobacco

BYLINE: BY MICHAEL KIRKLAND

DATELINE: WASHINGTON, April 26

BODY:

The Supreme Court says it will argument next term on the authority of the Food and Drug Administration to regulate tobacco as a drug. Industry officials warned last week that regulating tobacco as a drug -- something a lower court has blocked -- would ultimately lead to the banning of their product. According to the Justice Department, which asked the Supreme Court to hear the case, the FDA considered banning tobacco when it first tried to regulate the product in 1996. But the agency rejected a ban because "the sudden withdrawal from the market of products to which so many millions of people are addicted would be dangerous." The agency also feared the effects of a black market. Industry officials argued last week that even if the FDA doesn't want to ban tobacco immediately, provisions of existing law might compel the agency to ban it as a drug without therapeutic value or as "an unsafe medical device." And even if the FDA disagrees with that interpretation, the officials said, regulation would open the way for an immediate private lawsuit by anti-tobacco activists to force a ban in compliance with federal law. In a petition to the Supreme Court, the Justice Department said tobacco-related diseases kill more than 400,000 people each year, "more than AIDS, alcohol, car accidents, homicides, suicides, illegal drugs and fires combined." President Clinton first announced FDA regulation of tobacco in 1996. The regulation relied on the 1938 Food, Drug and Cosmetic Act, which expanded the legal definition of a "drug" to include non-food "articles intended to affect the structure or any function of the body of man or other animals. The act also authorized the FDA to regulate "devices" as well as drugs. A device is defined as the method by which a drug is introduced into the body. The Justice Department said the FDA conducted an extensive study before the 1996 regulation, determining that tobacco causes nicotine addiction. The study also found that tobacco companies manipulated the nicotine content of their cigarettes, and that tobacco use is a "pediatric

disease" acquired before someone is an adult. If someone doesn't smoke as a teenager, the study determined, he or she is unlikely to smoke as an adult. The regulation prohibited the sale of tobacco anywhere to those under 18, required retailers to check the identification of those under 27 and banned vending machines and self-service displays of cigarettes and smokeless tobacco outside of adult-only locations. The regulation also required that all tobacco advertisements appear in black and white, text-only format, except in adult-only publications and facilities; no outdoor ads within 1,000 feet of a school or playground; no sale or distribution of hats, T-shirts and other non-tobacco products that bear a tobacco product brand name or logo, and finally, no tobacco-brand name sponsorship of events, such as sports or cultural gatherings. The major tobacco companies filed suit against the regulation in federal court in the tobacco-growing area of Greensboro, N.C. Though a federal judge ruled for the FDA, an appeals court panel reversed, blocking all the regulations except for age limits on sales. The Clinton administration then asked the Supreme Court for review. But lawyers for the tobacco industry had urged the justices to let the appeals court ruling stand, saying the 1938 law, enacted five years after the end of Prohibition, was not intended to let the FDA "institute a new Prohibition." Argument in the case, though not yet scheduled, should be heard next winter unless either side asks the Supreme Court for an expedited process. (No. 98-1152, FDA et al vs. Brown and Williamson et al)

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Automated Records Management System
Hex-Dump Conversion

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-APR-1999 12:10:31.00

SUBJECT: UPI story

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: 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:

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April 26, 1999, Monday, BC cycle -10:31 Eastern Time

SECTION: Washington News

LENGTH: 1243 words

HEADLINE: UPI Focus) Court looks at the future of tobacco

BYLINE: BY MICHAEL KIRKLAND

DATELINE: WASHINGTON, April 26

BODY:

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disease" acquired before someone is an adult. If someone doesn't smoke as a teenager, the study determined, he or she is unlikely to smoke as an adult. The regulation prohibited the sale of tobacco anywhere to those under 18, required retailers to check the identification of those under 27 and banned vending machines and self-service displays of cigarettes and smokeless tobacco outside of adult-only locations. The regulation also required that all tobacco advertisements appear in black and white, text-only format, except in adult-only publications and facilities; no outdoor ads within 1,000 feet of a school or playground; no sale or distribution of hats, T-shirts and other non-tobacco products that bear a tobacco product brand name or logo, and finally, no tobacco-brand name sponsorship of events, such as sports or cultural gatherings. The major tobacco companies filed suit against the regulation in federal court in the tobacco-growing area of Greensboro, N.C. Though a federal judge ruled for the FDA, an appeals court panel reversed, blocking all the regulations except for age limits on sales. The Clinton administration then asked the Supreme Court for review. But lawyers for the tobacco industry had urged the justices to let the appeals court ruling stand, saying the 1938 law, enacted five years after the end of Prohibition, was not intended to let the FDA "institute a new Prohibition." Argument in the case, though not yet scheduled, should be heard next winter unless either side asks the Supreme Court for an expedited process. (No. 98-1152, FDA et al vs. Brown and Williamson et al)

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-APR-1999 13:34:00.00

SUBJECT: Final Statement

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

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

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

TEXT:

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-APR-1999 13:35:03.00

SUBJECT: Re: Final Statement

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

TEXT:

Cynthia A. Rice

04/26/99 01:33:57 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Laura
Emmett/WHO/EOP

cc:

Subject: Final Statement

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

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```

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release

April 26, 1999

STATEMENT BY THE PRESIDENT

I am very pleased that the Supreme Court has agreed to take up the case regarding the Food and Drug Administration's regulation of tobacco products. Almost three years ago, the FDA put in place a regulation to protect our children from tobacco, which the tobacco companies challenged in court. Every day, 3,000 young people become regular smokers and 1,000 will have their lives cut short as a result. I remain firmly committed to the FDA rule, which will help stop young people from smoking before they start by eliminating advertising aimed at children and curbing minors' access to tobacco products.

###

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-APR-1999 15:11:15.00

SUBJECT: Reminder--commetns on LABOR Report on S385 Safety Advancement for Employee

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

TO: Cordelia W. Reimers (CN=Cordelia W. Reimers/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN

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

TO: Lisa B. Fairhall (CN=Lisa B. Fairhall/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

TO: Iratha H. Waters (CN=Iratha H. Waters/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

TO: Courtney B. Timberlake (CN=Courtney B. Timberlake/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

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

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

TO: John E. Thompson (CN=John E. Thompson/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

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

READ:UNKNOWN

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

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

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

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

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

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

LRM AGRICULTURE (LRM AGRICULTURE [UNKNOWN])
READ:UNKNOWN

TEXT:

This is a reminder that your comments on the subject report are due at 4 p.m. today.

Please provide any comments via fax (395-6148), e-mail, or phone (395-7887) no later than the deadline. If we do not hear from you by the deadline, we will assume you have no comments.

Please call if you have any questions. Thanks!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Lotus Pager Gateway (Lotus Pager Gateway [UNKNOWN])

CREATION DATE/TIME:26-APR-1999 16:29:48.00

SUBJECT:

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

READ:UNKNOWN

TEXT:

To: JUSTIN L (Pager) #COLEMAN

cc:

From: Elena Kagan

Date: 4/26/1999

Time: 16:25:20

Subject:

Body:

They are updating my computer so I am going home; call me when you leave
re: plans -Laura

Priority:

Message history for recipient JUSTIN L COLEMAN [Pager]

Monday 26 Apr 1999 16:25:56 Eastern Standard Time - Message received by
Pager Gateway

Monday 26 Apr 1999 16:26:46 Eastern Standard Time - Message received by
Paging Service

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-APR-1999 17:26:17.00

SUBJECT: LRM MNB54 - - LABOR report on Increasing the minimum wage

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

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

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

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

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

TO: Cordelia W. Reimers (CN=Cordelia W. Reimers/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN

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

TO: Iratha H. Waters (CN=Iratha H. Waters/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

READ:UNKNOWN

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

CC: llr@do.treas.gov (llr@do.treas.gov @ inet [UNKNOWN])
READ:UNKNOWN

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

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

TEXT:

Note to EOP staff: you will not receive a hard copy of this LRM.

----- Forwarded by Melissa N. Benton/OMB/EOP on 04/26/99

05:15 PM -----

LRM ID: MNB54

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

Monday, April 26, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution
below
FROM: Janet R. Forsgren (for) Assistant Director for
Legislative Reference
OMB CONTACT: Melissa N. Benton
PHONE: (202)395-7887 FAX: (202)395-6148
SUBJECT: LABOR Statement for the Record on Increasing the minimum
wage

DEADLINE: 11 a.m. Tuesday, April 27, 1999

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

COMMENTS: The Department of Labor wants to submit this statement for the record for a House Education and the Workforce hearing tomorrow afternoon (April 27th).

DISTRIBUTION LIST

AGENCIES:

118-TREASURY - Richard S. Carro - (202) 622-0650
52-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7760
25-COMMERCE - Michael A. Levitt - (202) 482-3151
107-Small Business Administration - Mary Kristine Swedin - (202) 205-6700
61-JUSTICE - Jon P. Jennings - (202) 514-2141

EOP:

Barbara Chow
Iratha H. Waters
Barry White

Larry R. Matlack
 Debra J. Bond
 Cordelia W. Reimers
 Sarah Rosen
 Jeffrey L. Farrow
 Karen Tramontano
 Broderick Johnson
 Elena Kagan
 Andrea Kane
 Cynthia A. Rice
 Jack A. Smalligan
 Stuart Shapiro
 Sandra Yamin
 Janet R. Forsgren

LRM ID: MNB54 SUBJECT: LABOR Statement for the Record on
 Increasing the minimum wage
 RESPONSE TO
 LEGISLATIVE REFERRAL
 MEMORANDUM

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

You may also respond by:

- (1) calling the analyst/attorney's direct line (you will be connected to voice mail if the analyst does not answer); or
- (2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

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

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

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

- _____ Concur
- _____ No Objection
- _____ No Comment
- _____ See proposed edits on pages _____
- _____ Other: _____

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

- Minwagty.wpd

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D21]ARMS277847132.136 to ASCII,

The following is a HEX DUMP:

FF57504337050000010A02010000000205000000971A000000020000701F0133AD7AF993B4A86B
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2015D61362CFCCA0A3772CCA87E628F627806AE94C91F938DB14B5F144BF98BBE085E96FEF7C12
D4BC112A8A865899CB5575443EBC4E133D1F894AE61A335114D97E843465609A6F42F8B08216A4
07EE026B5F80504EA067D5A59D720D743C0A48EE65BE24107571D872474F714128FBD4F9D12ACF
9E6B7829309303CA47EA86A0018A570FB81D792DE6A81D162EECA5566730A0157695AD186F40BC
59AA1AF8BE90581EF0A7214A81EF1C580B12A643CE2476430A765E006FB9D628DAF1AA16D0D713
C98503289C632E2A5014BC6C9FF2E787E49AEA06C209CAC912B159ECF0B0DFB7ECF67136A3559C
5C8B4E31B7F288E6DCDA7D33D2972E2586766B84C36390BA0917875FEA02F4A2D530CE0F403887

**STATEMENT OF ALEXIS M. HERMAN,
SECRETARY OF LABOR**

BEFORE THE

**COMMITTEE ON EDUCATION AND THE WORKFORCE
HOUSE OF REPRESENTATIVES**

APRIL 27, 1999

I am pleased to be able to offer my remarks today in strong support of the President's proposal to increase the minimum wage. For more than 11 million American workers, increasing the minimum wage from \$5.15 an hour to \$6.15 a hour over two years is not an academic debate among economists. Instead, it is about paying the rent, buying the groceries, and keeping the kids in clothes. Seventy percent of those who would benefit are adults, 20 and over. Three-fifths are women, many of whom are the sole breadwinners in their families. Mr. Chairman, these hard-working Americans – some of whom work 2 and 3 jobs -- deserve a raise.

When we last raised the minimum wage and expanded the earned income tax credit, we took important steps to reward work and help millions of Americans raise their families with dignity and move off welfare. Because of our actions, a full-time working parent with two children does not have to live in poverty. But more must be done to ensure that *all* working families are lifted out of poverty.

The minimum wage is not enough to make ends meet for many families. Working 40 hours a week, 50 weeks a year, a minimum wage worker still earns just \$10,300 a year. For these

workers and their families, a one-dollar increase would make a real difference. It would mean another \$2,000 a year. That's enough to buy a family of four groceries for 7 months or pay for 5 months' rent.

Opponents of an increase in the minimum wage overlook these benefits, and claim an increase will hurt those it's intended to help. When we last raised the minimum wage, opponents claimed that jobs would be lost throughout the economy -- especially in lower-wage sectors such as retail stores and restaurants. They predicted that unemployment rates would skyrocket for teenagers and disadvantaged workers. Some claimed that inflation would go through the roof.

The facts have proven the critics were wrong. Unemployment and inflation are the lowest they have been in roughly 30 years. Since President Clinton signed the last increase into law, over 7 million new jobs have been added. More than one million new retail jobs have been added, and restaurant jobs have grown by over 270,000.

Unemployment has also declined significantly over the same period. The unemployment rate for African-Americans has dropped from 10.6% to 8.1%. Unemployment for Hispanics is at a record low of 5.8% -- down from 8.3% in September 1996. For high school dropouts, unemployment dropped from 8.2% to 6.1% -- another record low. Teenage unemployment declined from 15.7% to 14.3%, while African-American teen unemployment went from 33% to 31%.

Employment has increased dramatically as well. Employment among African-American women has risen from 57.2% to 60.9%. And employment for welfare recipients and single mothers with children is continuing to climb, at least partly because of policies that “make work pay” such as a higher minimum wage.

Some critics claim that these employment increases might have been even greater in the absence of the minimum wage increases, but it is hard to take these claims seriously. Many surveys of employers currently show that, instead of facing pools of qualified applicants whom they refuse to hire, they are having difficulty finding applicants to fill jobs that they've already created. This simply doesn't fit the picture of an economy in which moderate increases in the minimum wage have led to fewer jobs and lost employment opportunities.

The minimum wage increase would help, not hurt, poor families. Most studies show that minimum wage increases disproportionately benefit workers in low-income families. While a majority of those who earn the minimum wage live in families with incomes above the poverty line, these incomes are often below the average level of family income in the United States. An increase in the minimum wage would therefore help a wide range of families with low-wage workers who need a raise.

Mr. Chairman, we know who will benefit from this bill. We see minimum wage workers every day when we buy a cup of coffee on the way to work. We see them cleaning our offices as we

leave. We see them as we pick up our children from the child care center, or visit our parents in the nursing home. Our nation's extraordinary prosperity rests on the efforts of all these workers.

They deserve to be treated with dignity. They deserve a fair share of our prosperity. They deserve an increase in the minimum wage, and I urge you to adopt the President's proposal.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-APR-1999 17:26:17.00

SUBJECT: LRM MNB54 - - LABOR report on Increasing the minimum wage

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

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

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

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

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

TO: Cordelia W. Reimers (CN=Cordelia W. Reimers/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN

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

TO: Iratha H. Waters (CN=Iratha H. Waters/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

READ:UNKNOWN

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

CC: llr@do.treas.gov (llr@do.treas.gov @ inet [UNKNOWN])
READ:UNKNOWN

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

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

TEXT:

Note to EOP staff: you will not receive a hard copy of this LRM.

----- Forwarded by Melissa N. Benton/OMB/EOP on 04/26/99

05:15 PM -----

LRM ID: MNB54

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

Monday, April 26, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution
below
FROM: Janet R. Forsgren (for) Assistant Director for
Legislative Reference
OMB CONTACT: Melissa N. Benton
PHONE: (202)395-7887 FAX: (202)395-6148
SUBJECT: LABOR Statement for the Record on Increasing the minimum
wage

DEADLINE: 11 a.m. Tuesday, April 27, 1999

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

COMMENTS: The Department of Labor wants to submit this statement for the record for a House Education and the Workforce hearing tomorrow afternoon (April 27th).

DISTRIBUTION LIST

AGENCIES:

118-TREASURY - Richard S. Carro - (202) 622-0650
52-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7760
25-COMMERCE - Michael A. Levitt - (202) 482-3151
107-Small Business Administration - Mary Kristine Swedin - (202) 205-6700
61-JUSTICE - Jon P. Jennings - (202) 514-2141

EOP:

Barbara Chow
Iratha H. Waters
Barry White

Larry R. Matlack
 Debra J. Bond
 Cordelia W. Reimers
 Sarah Rosen
 Jeffrey L. Farrow
 Karen Tramontano
 Broderick Johnson
 Elena Kagan
 Andrea Kane
 Cynthia A. Rice
 Jack A. Smalligan
 Stuart Shapiro
 Sandra Yamin
 Janet R. Forsgren

LRM ID: MNB54 SUBJECT: LABOR Statement for the Record on
 Increasing the minimum wage
 RESPONSE TO
 LEGISLATIVE REFERRAL
 MEMORANDUM

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- (2) sending us a memo or letter

Please include the LRM number shown above, and the subject shown below.

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

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

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

- _____ Concur
- _____ No Objection
- _____ No Comment
- _____ See proposed edits on pages _____
- _____ Other: _____

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

- Minwagty.wpd

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D21]ARMS277847132.136 to ASCII,
The following is a HEX DUMP:

FF57504337050000010A02010000000205000000971A000000020000701F0133AD7AF993B4A86B
4060F87577CA6364A163658D01F36594ED068946994E2A5034BC6DBB9088F39B45E5B54C074510
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07EE026B5F80504EA067D5A59D720D743C0A48EE65BE24107571D872474F714128FBD4F9D12ACF

**STATEMENT OF ALEXIS M. HERMAN,
SECRETARY OF LABOR**

BEFORE THE

**COMMITTEE ON EDUCATION AND THE WORKFORCE
HOUSE OF REPRESENTATIVES**

APRIL 27, 1999

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When we last raised the minimum wage and expanded the earned income tax credit, we took important steps to reward work and help millions of Americans raise their families with dignity and move off welfare. Because of our actions, a full-time working parent with two children does not have to live in poverty. But more must be done to ensure that *all* working families are lifted out of poverty.

The minimum wage is not enough to make ends meet for many families. Working 40 hours a week, 50 weeks a year, a minimum wage worker still earns just \$10,300 a year. For these

workers and their families, a one-dollar increase would make a real difference. It would mean another \$2,000 a year. That's enough to buy a family of four groceries for 7 months or pay for 5 months' rent.

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Mr. Chairman, we know who will benefit from this bill. We see minimum wage workers every day when we buy a cup of coffee on the way to work. We see them cleaning our offices as we

leave. We see them as we pick up our children from the child care center, or visit our parents in the nursing home. Our nation's extraordinary prosperity rests on the efforts of all these workers.

They deserve to be treated with dignity. They deserve a fair share of our prosperity. They deserve an increase in the minimum wage, and I urge you to adopt the President's proposal.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jennifer M. Luray (CN=Jennifer M. Luray/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:26-APR-1999 18:02:55.00

SUBJECT: contraceptive cov.

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

READ:UNKNOWN

TEXT:

Marcia Greenberger and Judy Lichtman may be calling you to discuss the conscience clause issue. Let's talk first.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Broderick Johnson (CN=Broderick Johnson/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:26-APR-1999 19:06:42.00

SUBJECT: Ed-Flex

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

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

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

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

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

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

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

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

CC: Jade L Riley (CN=Jade L Riley/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

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

CC: Iratha H. Waters (CN=Iratha H. Waters/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

CC: Dario J. Gomez (CN=Dario J. Gomez/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

CC: Marty J. Hoffmann (CN=Marty J. Hoffmann/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TEXT:

Latest information: After the Republicans enroll the ed-flex bill at an Alexandria public school tomorrow, they will send the bill to us immediately, clearing the way for POTUS to sign.