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[05/18/1999] [1]

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001. email	William Winkler to Elena Kagan re No Subject (1 page)	05/18/1999	P6/b(6)

COLLECTION:

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[05/18/1999] [1]

2009-1006-F

kc165

RESTRICTION CODES

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

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

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PRM. Personal record misfile defined in accordance with 44 U.S.C. 2201(3).

RR. Document will be reviewed upon request.

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAY-1999 10:04:34.00

SUBJECT: LRM MNB73 - - LABOR Report on HR987 Workplace Preservation Act; H.R. 1439,

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Randolph M. Lyon (CN=Randolph M. Lyon/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: Frank J. Seidl III (CN=Frank J. Seidl III/OU=OMB/O=EOP@EOP [OMB])

READ:UNKNOWN

TO: Barry T. Clendenin (CN=Barry T. Clendenin/OU=OMB/O=EOP@EOP [OMB])

READ:UNKNOWN

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

READ:UNKNOWN

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

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: James J. Jukes (CN=James J. Jukes/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: Sarah S. Lee (CN=Sarah S. Lee/OU=OMB/O=EOP@EOP [OMB])

READ:UNKNOWN

TO: Peter Rundlet (CN=Peter Rundlet/OU=WHO/O=EOP@EOP [WHO])

READ:UNKNOWN

TO: Mark E. Miller (CN=Mark E. Miller/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: Daniel J. Chenok (CN=Daniel J. Chenok/OU=OMB/O=EOP@EOP [OMB])

READ:UNKNOWN

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

READ:UNKNOWN

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

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

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

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

LRM Small Business Administration (LRM Small Business Administration [UNKNOWN])
READ:UNKNOWN

TEXT:

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

In particular, please note the Secretarial veto threat on H.R. 987.
----- Forwarded by Melissa N. Benton/OMB/EOP on 05/18/99

10:02 AM -----

LRM ID: MNB73

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

Monday, May 17, 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 HR987 Workplace Preservation Act

DEADLINE: 1 p.m. Tuesday, May 18, 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: H.R. 987 is scheduled for Subcommittee markup the morning of Wednesday, May 19th, along with the two other OSHA bills addressed in this letter.

DISTRIBUTION LIST

AGENCIES:

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

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

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

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D67]ARMS29191205Q.136 to ASCII,
The following is a HEX DUMP:

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The Honorable Cass Ballenger
Chairman
Subcommittee on Workforce Protections
Committee on Education and the Workforce
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Ballenger:

I am writing to inform you of the views of the Department of Labor regarding three bills the Subcommittee on Workforce Protections may mark up this week: H.R. 987, the "Workplace Preservation Act," H.R. 1439, the "Safety and Health Audit Promotion and Whistleblower Improvement Act of 1999," and H.R. 1459, the "Models of Safety and Health Excellence Act of 1999."

H.R. 987, "Workplace Preservation Act"

The Department is strongly opposed to H.R. 987, which is intended to delay the issuance of a protective standard on ergonomics until the National Academy of Sciences (NAS) has completed another study of the scientific literature regarding musculoskeletal disorders (MSDs) and ergonomics. Each year, over 600,000 American workers suffer disabling, work-related MSDs. It is time to act to prevent these injuries and reduce the toll of suffering and the enormous economic cost they entail. Employers currently spend more than \$15-20 billion a year just on the workers' compensation associated with MSDs; the total cost of our failure to address ergonomics is as high as \$60 billion.

H.R. 987 would force the Occupational Safety and Health Administration (OSHA) to wait another 18 months to two years before issuing a standard, allegedly in the expectation that the conclusions of a new NAS study will be different from those reached by NAS just last year after a six month study commissioned by Congress and different from the conclusions of an exhaustive study by the National Institute for Occupational Safety and Health in 1997. Both of those studies concluded that MSDs are caused by physical forces in the workplace and that ergonomic solutions can reduce those forces and reduce the risk of MSDs.

Major public health organizations, medical societies and scientific groups, including the American College of Occupational and Environmental Medicine, the American Public Health Association, the American Nurses Association, and the American Academy of Orthopedic Surgeons oppose H.R. 987 and urge OSHA to move ahead with a protective standard. After more than ten years of experience with ergonomic programs in the red meat industry, exhaustive scientific study, and millions of unnecessary injuries, it is clearly time to move ahead.

I urge the Subcommittee to not act favorably on H. R. 987. If H.R. 987 were enacted by the Congress, I would recommend that the President veto the legislation.

H.R. 1439, "Safety and Health Audit Promotion and Whistleblower Improvement Act of 1999"

A second bill to be marked up is the Chairman's bill, H.R. 1439, which addresses two important, but unrelated issues, OSHA's access to and use of employer records in enforcement proceedings and the Occupational Safety and Health Act's outdated and inadequate protections against retaliation for employees who "blow the whistle" on safety violations or refuse to engage in unreasonably dangerous work. Although I appreciate the courtesy you have shown by sharing the draft bill with us and in soliciting suggestions for improvement, we cannot support H.R. 1439 because it does not make adequate changes in the Act's protections for whistleblowers and its treatment of employer self-audits will interfere with the proper enforcement of the OSH Act.

H.R. 1439 makes three positive changes in section 11(c) of the OSH Act, the provision of the Act that protects whistleblowers against retaliation: it lengthens the statute of limitations from 30 days to 60 days; it provides for an administrative remedy in the Occupational Safety and Health Review Commission instead of requiring the Secretary to pursue relief for employees in federal district court; and it allows the employee to pursue his or her own case if the Department of Labor moves too slowly or decides against pursuing the employee's case at all.

Nevertheless, each of those provisions is not as strong nor as effective as related provisions the Administration has forwarded to Congress in the Hazard Reporting Protection Act of 1999. We feel strongly that the statute of limitations under section 11(c) should be 180 days, rather than 60 days. We believe that Department of Labor's Administrative Law Judges would provide a faster and more reliable forum for trying whistleblower cases than the Review Commission, which often finds itself without a quorum or with only two members who cannot act to resolve a case, and which has no expertise in retaliation and employment discrimination cases. And while H.R. 1439 allows employees to pursue their own cases, it does not provide for interim relief, a critical remedy that can make it possible for employees with no source of income to pursue lengthy litigation to vindicate their rights.

Moreover, it appears that H.R. 1439 eliminates important remedies that are currently available under section 11(c), the right to recover compensatory and exemplary damages. While exemplary damages have rarely been awarded, they provide an important deterrent against employer misconduct, and compensatory damages are vital to assuring that whistleblowers who have suffered discrimination are made whole. The Administration's Hazard Reporting Protection Act of 1999 explicitly provides for compensatory and exemplary damages, and provides for the award of costs and attorney fees to the prevailing plaintiff.

As for the self-audit provisions of H.R. 1439, the Department is deeply concerned with the extraordinarily broad privileges for employer self-audit information that the bill would afford. The bill would provide that virtually any employer evaluation of workplace conditions, practices, or operations could be withheld by the employer in any OSHA inspection or enforcement proceeding, with narrow exceptions. The bill protects **any** information obtained or prepared in connection with safety and health audits, and defines an audit as including **any** evaluation of

workplace conditions, practices, processes, operations, or systems designed to identify and prevent potential or real workplace hazards. In short, even the smallest amount of knowledge an employer gains through a daily walkaround of a plant, or from a conversation about a particular process, is immune from disclosure to OSHA. In effect, this bill would immunize from disclosure all knowledge an employer has about safety or health in his workplace, or about his workplace's compliance with the OSH Act.

The key problem with the bill is that it would place off-limits to OSHA the very information it needs to determine whether there has been a violation of the Act, unless OSHA first establishes that a violation exists -- a greater impediment to OSHA enforcement would be hard to devise. In many cases, particularly those involving workplace accidents, employer records provide not only the best evidence but the only evidence. The bill's requirement that OSHA independently establish any violation before having access to employer-generated information would bar OSHA from access to the very information it needs to accurately assess conditions at the workplace, and would gravely impair the agency's ability to enforce the Act. The bill's supposed exception for cases where the Secretary proves employer bad faith amounts to requiring the agency to prove a willful violation before it is even granted access to the most basic health and safety data.

Conscientious employers know that there are many advantages to employer-sponsored workplace audits and evaluations, and do not need an added incentive. Employers who can demonstrate good faith efforts to identify and correct workplace hazards have learned they have everything to gain by sharing this information with OSHA. On the other hand, an employer who learns of hazardous conditions but who has taken no action to protect his employees, may have reason to conceal such audits from OSHA. The self-audit provisions of H.R. 1439 would primarily benefit such employers. Because these provisions would seriously impair OSHA's compliance program without contributing to employee health or safety, the Department strongly opposes H.R. 1439.

H.R. 1459, "Models of Safety and Health Excellence Act of 1999"

The Department is a strong supporter of the Voluntary Protection Program (VPP), which would be codified by H.R. 1459. I would like to thank the sponsors of the bill, Representative Petri and Representative Andrews, who shared drafts of H.R. 1459 with OSHA and asked for our comments before introducing the bill. While we would like to work with you further on the employee participation requirement, we are pleased to say that we endorse your efforts to codify the program, and believe it will help raise the stature of the VPP, OSHA's oldest and most important recognition program for excellence in workplace safety and health management and cooperation.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

Alexis M. Herman

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ronald E. Jones (CN=Ronald E. Jones/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:18-MAY-1999 10:29:01.00

SUBJECT: Urgent -- Treasruy/Education Veto Letter -- comments due by 2 PM today

TO: william.fant@do.treas.gov@inet (william.fant@do.treas.gov@inet [UNKNOWN])
READ:UNKNOWN

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

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

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

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

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

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

TO: Elizabeth M. Hoffman (CN=Elizabeth M. Hoffman/OU=CEQ/O=EOP@EOP [UNKNOWN])
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

TO: Alexander T. Hunt (CN=Alexander T. Hunt/OU=OMB/O=EOP@EOP [OMB])

READ:UNKNOWN

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

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

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

CC: Richard E. Green (CN=Richard E. Green/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

Ronald E. Jones (CN=Ronald E. Jones/OU=OMB/O=EOP [OMB])
READ:UNKNOWN

TEXT:

The attached letter contains a veto threat on the unnumbered Senate bill scheduled for markup by the Senate Finance Committee as soon as tomorrow. The Senate bill contains objectionable provisions similar to those in the 105th Congress' HR 2646, which the President vetoed.

A hard copy of the attached will not be sent to EXOP reviewers.

LRM ID: REJ92
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, May 18, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution
below

FROM: Richard E. Green (for) Assistant Director for
Legislative Reference

OMB CONTACT: Ronald E. Jones

PHONE: (202)395-3386 FAX: (202)395-3109

SUBJECT: TREASURY/EDUCATION Report on S___ Education Tax
Incentives

DEADLINE: 2:00 PM today Tuesday, May 18, 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 attached letter contains a veto threat on the unnumbered Senate bill scheduled for markup by the Senate Finance Committee as soon as tomorrow. The Senate bill contains objectionable provisions similar to those in the 105th Congress' HR 2646, which the President vetoed.

DISTRIBUTION LIST

AGENCIES:

118-TREASURY - Richard S. Carro - (202) 622-0650
30-EDUCATION - Jack Kristy - (202) 401-8313
76-National Economic Council - Sonyia Matthews - (202) 456-6630
61-JUSTICE - Jon P. Jennings - (202) 514-2141

EOP:

Gene B. Sperling

Elena Kagan
Bruce N. Reed
Michael Cohen
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Alexander T. Hunt
Janet R. Forsgren
Constance J. Bowers
Lorenzo Rasetti
James J. Jukes

LRM ID: REJ92 SUBJECT: TREASURY/EDUCATION Report on S____
Education Tax Incentives
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: Ronald E. Jones Phone: 395-3386 Fax: 395-3109
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-3454

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:

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```

Dear Mr. Chairman, [Dear Senator Moynihan]

We write to express our strong opposition to proposals for education tax incentives (Joint Committee on Taxation, "Description of Chairman's Mark of Proposals Relating to Education Incentives" (JCX-020-99), May 17, 1999), which we understand your Committee will consider this week. In the summer of 1997, as Congress was in the final stages of consideration of the Taxpayer Relief Act of 1997, the President stated that he would veto the legislation if it contained a proposal relating to Education Savings Accounts that is similar to the education savings account proposals contained in the Chairman's Mark. In 1998, we wrote to inform you that we would recommend to the President that he veto similar legislation, which, after consideration and approval by Congress, he did. If these proposals were to pass the Congress this year, we again would recommend to the President that he veto the bill.

Every American child deserves a high quality elementary and secondary education. We believe that targeting our limited Federal resources to build stronger public schools will help ensure all our children receive the education they need to be productive citizens. Public schools serve approximately 90 percent of students in grades K-12 and currently face record-breaking enrollments. By focusing resources on public schools, we can leverage community investment to help parents, teachers, and administrators meet the important educational challenges they face in serving the vast majority of our children: meeting high standards for learning and discipline; fixing school buildings; and providing a safe, drug-free environment for children. For this reason, the President's FY 2000 budget proposals includes a school modernization bond initiative that would leverage \$25 billion of new public school construction. In contrast, the Chairman's Mark diverts needed attention and resources from our public schools.

The current bill disproportionately benefits the most affluent families and provides little benefit to lower-and middle-income families. Additionally, given the expansion of tax-preferred savings vehicles in the Taxpayer Relief Act of 1997, we do not believe that further increasing the contribution limits for Education IRAs will generate much additional savings. Instead, the Chairman's Mark would reward families, particularly those with significant means, for what they would do absent any increase.

We are also concerned that the bill would create significant compliance problems. The legislation allows tax-free withdrawals from Education IRAs for, among other things, tuition, fees, academic tutoring, special needs services, books, supplies and equipment expenses incurred in connection with the child's enrollment or attendance at a public or private school. Withdrawals are also tax-free if used for room and board, uniforms, transportation or supplementary items or services required or provided by the school. Distinguishing between an appropriately tax-free withdrawal and one that should be subject to tax would lead to significant additional record keeping burdens for families and schools, as well as disputes when discretionary purchases are made.

We, therefore, urge the Committee not to approve this legislation.

We understand that Senator [Robb] intends to offer a substitute that would replace the education IRA proposals in this bill with school modernization/construction bond proposals similar to those in the President's budget for FY 2000. We strongly prefer that proposal and other alternatives that devote Federal revenue to improving the public schools so that a high-quality education is available to every American child regardless of their family income. Therefore, we strongly support Senator [Robb]'s substitute.

Sincerely,

Robert E. Rubin
Secretary of the Treasury

Richard W. Riley
Secretary of Education

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Constance J. Bowers (CN=Constance J. Bowers/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:18-MAY-1999 10:29:03.00

SUBJECT: New ESEA Social Promotion Language

TO: Bethany Little (CN=Bethany Little/OU=OPD/O=EOP [OPD])

READ:UNKNOWN

TO: Leslie S. Mustain (CN=Leslie S. Mustain/OU=OMB/O=EOP@EOP [OMB])

READ:UNKNOWN

TO: Wayne Upshaw (CN=Wayne Upshaw/OU=OMB/O=EOP@EOP [OMB])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Wei-Min C. Wang (CN=Wei-Min C. Wang/OU=OMB/O=EOP@EOP [OMB])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Attached is ED's revised draft Title XI language on social promotion, including a new subsection 11204(d) SPECIAL RULE, which specifies that a State receiving assistance must have a policy not to withhold promotion (at the 3 transition points) from LEP students solely because of a lack of English proficiency. The new language is in bold, if you "launch" the document (It is the very last paragraph.) ED reports that this has been agreed to by Barbara Chow, Elena Kagan and Bruce Reed. Please confirm that this language is consistent with your understanding of the agreement.

With this change, there are no outstanding issues, and we are prepared to clear the bill unless advised otherwise.

Thanks.

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

"STUDENT PROGRESS AND PROMOTION POLICY

"SEC. 11204. (a) IN GENERAL.-(1) A State that receives assistance under this Act shall, at the time it submits its accountability plan under section 11208, have in effect a State policy that is designed to-

"(A) ensure that students progress through school on a timely basis, having mastered the challenging material needed for them to reach high standards of performance; and

"(B) end the practices of social promotion and retention.

"(2) As used in this part, the term-

"(A) 'social promotion' means the unsound educational practice of promoting students who have not demonstrated mastery of challenging State academic standards; and

"(B) 'retention' means the unsound educational practice of requiring students who have not demonstrated mastery of challenging State academic standards to remain in the same grade, without the specific educational interventions they need to master those standards.

"(b) POLICY. In order to ensure that students will progress through school and graduate having mastered the

challenging material needed for them to meet high standards of performance, a State policy under subsection (a) shall—

"(1) require—

"(A) its local educational agencies to implement continuing, intensive and comprehensive educational interventions as may be necessary to ensure that all students can meet the challenging academic performance standards required under section 1111(b)(1)(A) of this Act; and

"(B) all students to meet those challenging standards before being promoted at three key transition points (one of which shall be graduation from secondary school), as determined by the State, consistent with section 1111(b)(2)(D) of this Act;

"(2) require the State educational agency to determine, through the collection of appropriate data, whether local educational agencies and schools are ending the practices of social promotion and retention;

"(3) require its local educational agencies to provide to all students educational opportunities in classrooms with qualified teachers who use proven instructional practices that are aligned with the State's challenging standards and who are supported by high-quality professional development;

"(4) require its local educational agencies to use effective, research-based prevention and early intervention strategies to identify and support students who need additional help to meet those promotion standards;

"(5) provide, with respect to students who have not demonstrated mastery of challenging State academic standards on a timely basis—

"(A) for continuing, intensive, and age-appropriate interventions, including extended instruction and learning time, such as after-school and summer programs that are designed to help students master such material;

"(B) for other specific interventions, with appropriate instructional strategies, to enable students with limited English proficiency and students with disabilities to master such material;

"(C) for the identification of the knowledge and skills in particular subject areas that students have not mastered, in order to facilitate remediation in those areas;

"(D) for the development, by schools, of plans to provide individualized attention to students who have not mastered such material;

"(E) for full communication between the school and parents, including a description and analysis of

the students' performance, how it will be improved, and how parents will be involved in the process; and

"(F) in cases in which significant numbers of students have failed to master such material, for a State review of whether corrective action under section 1116 of this Act with respect to the school or local educational agency is needed;

"(6) require its local educational agencies to disseminate widely their policies under this subsection in language and in a format that is concise and that parents can understand; and

"(7) ensure that any assessments used by a State, local educational agency, or school for the purpose of implementing a policy under this subsection--

"(A) are aligned with the State's challenging content and performance standards and provide coherent information about student progress towards attainment of those standards;

"(B) include multiple measures, including teacher evaluations, no one of which may be assigned determinative weight in making adverse decisions about individual students;

"(C) offer multiple opportunities for students to demonstrate that they meet the standards;

"(D) are valid and reliable for the purposes for which they are used and must fairly and accurately measure what students have been taught;

"(E) provide reasonable adaptations and accommodations for students with disabilities and students with limited English proficiency; and

"(F) provide that students with limited English proficiency are assessed, to the greatest extent practicable, in the language and form most likely to yield accurate and reliable information about what those students know and can do.

"(c) PLAN CONTENT. A State shall include in its accountability plan under section 11208 a detailed description of—

"(1) its policy under subsection (b);

"(2) the strategies and steps (including timelines and performance indicators) that the State will take to ensure that its policy is fully implemented no later than four years from the date of the approval of its accountability plan; and

"(3) the steps that the State will take to ensure that the policy is disseminated to all local educational agencies and schools in the State and to the general public.

"(d) SPECIAL RULE. A State policy under subsection
(a) shall provide that no student with limited English
proficiency shall be denied promotion under subsection
(b) (1) (B) solely because of a lack of English proficiency.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAY-1999 11:13:28.00

SUBJECT: Reminder--comments on LRM MNB72 - - LABOR Report on HR1381 Rewarding Perfo

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

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

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

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

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

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

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

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

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

TEXT:

This is a reminder that your comments on the subject report are due.

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

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	William Winkler to Elena Kagan re No Subject (1 page)	05/18/1999	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[05/18/1999] [1]

2009-1006-F
kc165

RESTRICTION CODES

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

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

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

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

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: William K. Winkler (CN=William K. Winkler/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:18-MAY-1999 11:39:00.00

SUBJECT:

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

READ:UNKNOWN

TEXT:

Please disregard my last transmission. It was sent in error. I have received your report.

Thanks-- Will

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Michael Waldman (CN=Michael Waldman/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:18-MAY-1999 11:40:25.00

SUBJECT: does this subsume/differ from the Edley proposals for the race book?

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Education Plan Will Ensure Equality

WASHINGTON (AP) □* Education Secretary Richard W. Riley says the administration will propose that school districts receiving federal funds for poor

students be required to make sure all schools have the same class-size ratios, qualified teaching staff, course offerings and facilities.

In a speech Monday marking the 45th anniversary of a landmark school desegregation ruling, Riley said the plan □* among others to be announced Wednesday □* would narrow gaps between the rich and poor and between minority and white students.

The proposals would involve changes in the Elementary and Secondary Education Act, a 34-year-old law Congress is expected to renew this year.

``It is incumbent upon us to build upon the legacy of Brown,`` Riley said, referring to the 1954 Supreme Court ruling in Brown vs. Board of Education of

Topeka, Kan. The ruling ended deliberate racial division of the nation's schools.

Although schools with high poverty and minority student populations had made

some strides, those schools also offer fewer classes that help prepare their students for college, Riley said.

At a White House conference Monday, Americans for a Fair Chance and other civil rights and student groups pledged to improve programs that encourage women and minority students to atte

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Todd Stern (CN=Todd Stern/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:18-MAY-1999 11:43:41.00

SUBJECT: race book

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

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

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

TEXT:

Idea seems to be to get POTUS a new draft of book before he leaves on vacation at beginning of next week. I will send a memo along with it outlining major disputed issues. This means that you've got to speak rapidly (about anything you haven't spoken on yet, such as civil rights) or hold your peace. Same deal on the NEC side of life. tds

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Constance J. Bowers (CN=Constance J. Bowers/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:18-MAY-1999 12:17:29.00

SUBJECT: Resending Social Promotion Language

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

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

TO: Wei-Min C. Wang (CN=Wei-Min C. Wang/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

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

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

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

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

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

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

TEXT:

You should be able to access the document below. There was a technical glitch previously.

----- Forwarded by Constance J. Bowers/OMB/EOP on
05/18/99 12:17 PM -----

Constance J. Bowers

05/18/99 12:14:15 PM

Record Type: Record

To: Robert W. Haas/OA/EOP@EOP

cc:

Subject:

"STUDENT PROGRESS AND PROMOTION POLICY

"SEC. 11204. (a) IN GENERAL.-(1) A State that receives assistance under this Act shall, at the time it submits its accountability plan under section 11208, have in effect a State policy that is designed to-

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"(d) SPECIAL RULE. A State policy under subsection
(a) shall provide that no student with limited English
proficiency shall be denied promotion under subsection
(b) (1) (B) solely because of a lack of English proficiency.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Constance J. Bowers (CN=Constance J. Bowers/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:18-MAY-1999 12:56:07.00

SUBJECT: Final ESEA Transmittal Letter and Fact Sheet

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

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

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

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

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

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

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

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

TO: Wei-Min C. Wang (CN=Wei-Min C. Wang/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

TEXT:

Attached are the subject documents as modified by ED to reflect changes you provided. ED (per Ann O'Leary) advises that the bill will be transmitted by the President Friday; however, the Fact Sheet and Prospectus will be "rolled out" tomorrow. If this is accurate, please let me know as promptly as possible this afternoon if you have any changes that must be made to the Fact Sheet.

----- Forwarded by Constance J. Bowers/OMB/EOP on
05/18/99 12:51 PM -----

"Cordes, Bill" <Bill_Cordes@ed.gov>
05/18/99 12:32:45 PM

Record Type: Record

To: Constance J. Bowers/OMB/EOP, "O'Leary, Ann" <Ann_O'Leary@ed.gov>
cc: "Kristy, Jack" <Jack_Kristy@ed.gov>
Subject: Final ESEA Transmittal Letter and Fact Sheet

Attached are what I hope will be our final versions of the transmittal

Office of the Press Secretary

For Immediate Release

May 21, 1999

TO THE CONGRESS OF THE UNITED STATES:

I am pleased to transmit today for your immediate consideration the "Educational Excellence for All Children Act of 1999," the Administration's proposal for reauthorization of the Elementary and Secondary Education Act of 1965 (ESEA) and other elementary and secondary education programs.

My proposal builds on the positive trends achieved under current law. The Improving America's Schools Act of 1994, which reauthorized the ESEA five years ago, and the Goals 2000: Educate America Act gave States and school districts a framework for integrating Federal resources in support of State and local reforms based on high academic standards. In response, 48 States, the District of Columbia, and Puerto Rico have adopted State-level standards. Recent results of the National Assessment of Educational Progress (NAEP) show improved performance for the economically disadvantaged and other at-risk students who are the primary focus of ESEA programs. NAEP reading scores for nine-year olds in high-poverty schools have improved significantly since 1992, while mathematics achievement has also increased nationally. Students in high-poverty schools and the lowest-performing students—the specific target populations for the ESEA Title I program—have registered gains in both reading and math achievement.

I am encouraged by these positive trends, but educational results for many children remain far below what they should be. My proposal to reauthorize the ESEA is based on four crosscutting themes reflecting both lessons from research and the experience of implementing the 1994 Act.

First, we would continue to focus on high academic standards for all children. The underlying purpose of every program within the ESEA is to help all children reach challenging State and local academic standards. States have largely completed the first stage of standards-based reform by developing content standards for all children. My bill would support the next stage of reform by helping States, districts, schools, and teachers use these standards to guide classroom instruction and assessment.

My proposal for reauthorizing Title I, for example, would require States to hold districts and schools accountable for student performance against State standards, including helping the lowest-performing students continually improve. The bill also would continue to target Federal elementary and secondary education resources on those students furthest from meeting State and local standards, with a particular emphasis on narrowing the gap in achievement between disadvantaged students and their more fortunate peers. In this regard, my proposal would also phase-in equal treatment of Puerto Rico in ESEA funding formulas, so that poor children in

Puerto Rico are treated the same as those in the rest of the country for the purpose of formula allocations.

Second, my proposal responds to research showing that while qualified teachers are critical to improving student achievement, far too many teachers are not prepared to teach to high standards. Teacher quality is a particular problem in high-poverty schools, and the problem is often exacerbated by the use of paraprofessionals in instructional roles.

My bill addresses teacher quality by holding States accountable for stronger enforcement of their own certification and licensure requirements, while at the same time providing substantial support for State and local professional development efforts. The Teaching to High Standards initiative in Title II would help move challenging educational standards into every classroom by providing teachers with sustained and intensive high-quality professional development in core academic subjects, supporting new teachers during their first three years in the classroom, and ensuring that all teachers are proficient in relevant content knowledge and teaching skills.

The Technology for Education initiative under Title III would expand the availability of educational technology as a tool to help teachers implement high standards in the classroom, particularly in high-poverty schools. The bill also would extend, over the next seven years, the Class-Size Reduction initiative, which aims to reduce class sizes in the early grades by helping districts to hire and train 100,000 teachers. And the Title VII Bilingual Education proposal would help ensure that all teachers are well trained to teach limited English proficient students, who are found in more and more classrooms with each passing year.

Third, my bill would increase support for safe, healthy, disciplined, and drug-free learning environments for all students. The recent tragedy at Columbine High School in Littleton, Colorado, reminds us that we must be ever vigilant against the risks of violence and other dangerous behaviors in our schools. Our reauthorization bill includes several measures to help mitigate these risks.

We would strengthen the Safe and Drug-Free Schools and Communities Act by concentrating funds on districts with the greatest need for drug- and violence-prevention programs, and by emphasizing the use of research-based programs of proven effectiveness. Moreover, this proposal would require schools to refer students who bring weapons to schools to a mental health professional for assessment and require counseling for those who pose an imminent threat to themselves or others, allow funding for programs that educate students about the risks associated with guns, expand character education programs, and promote alternative schools and second chance programs. A new School Emergency Response to Violence program would provide rapid assistance to school districts that have experienced violence or other trauma that disrupts the learning environment.

My High School Reform initiative would support innovative reforms to improve student achievement in high schools, such as expanding the connections between adults and students that are necessary for effective learning and healthy personal development. This new initiative would provide resources to help transform 5,000 high schools into places where students receive

individual attention, are motivated to learn, are provided with challenging courses, and are encouraged to develop and pursue long-term educational and career goals.

Fourth, in response to clear evidence that standards-based reforms work best when States have strong accountability systems in place, my proposal would encourage each State to establish a single, rigorous accountability system for all schools. The bill also would require States to end social promotion and traditional retention practices, to phase out the use of teachers with emergency certificates and the practice of assigning teachers “out-of-field,” and to implement sound discipline policies in every school. Finally, the bill would give parents an important new accountability tool by requiring State, district, and school-level report cards that will help them evaluate the quality of the schools their children attend.

The Educational Excellence for All Children Act of 1999 provides a solid foundation—based on high standards for all students, high-quality professional development for teachers, safe and disciplined learning environments, and accountability to parents and taxpayers—for raising student achievement and narrowing the achievement gap between disadvantaged students and their more advantaged peers. More importantly, it will help prepare all of our children, and thus the Nation, for the challenges of the 21st century. I urge the Congress to take prompt and favorable action on this proposal.

WILLIAM J. CLINTON

THE WHITE HOUSE
May 19, 1999

“Educational Excellence for All Children Act of 1999”

FACT SHEET

The President today sent to the Congress the “Educational Excellence for All Children Act of 1999,” his proposal to reauthorize the Elementary and Secondary Education Act of 1965 (ESEA). This legislation reaffirms the critical role of the Federal Government in working with schools, school districts, and States to promote educational excellence for all children. Every child, parent, grandparent, and taxpayer deserves high quality public schools in their communities.

More specifically, the proposal would build on the 1994 ESEA reauthorization, which established the core principle that disadvantaged children should achieve to the same challenging academic standards as their more fortunate peers, by helping States, districts, schools, and teachers use these standards to guide classroom instruction and assessment.

Background

In 1994, the Clinton Administration and Congress began the transformation of the Federal role in education by passing the Improving America’s Schools Act, which reauthorized the ESEA, and the Goals 2000: Educate America Act, which supported State and local school reform efforts based on challenging academic standards and assessments linked to those standards. Prior to 1994, our education system had for too long condoned low expectations and low standards for disadvantaged children, and Federal programs often reflected those expectations. The 1994 laws established the clear expectation that all children can and should reach high standards.

The two laws were built on the principle that students and schools rise to the expectations and standards we set for them. Therefore, Federal resources were focused on helping States to develop and implement challenging State standards for all children and to use those standards to improve learning through a coherent and aligned system of curricula and assessments.

The 1994 laws complemented and accelerated reforms already underway in many States and school districts, while providing a catalyst for change in States that had not yet begun setting high academic standards. In fact, in a recent study by the General Accounting Office, many States reported that Goals 2000 has been a significant factor in promoting their education reform efforts. Similarly, according to the National Assessment of Title I, about half of poor school districts across the Nation report that Title I is “driving standards-based reform in the district as a whole.” With 48 States, Puerto Rico, and the District of Columbia having completed the development of State content standards for all children, it is clear that higher standards are taking hold nationwide.

More importantly, there is strong evidence that where States have implemented standards-based reform over a period of time—together with accountability mechanisms linked to those standards—students have benefited. For example, North Carolina and Texas made greater gains in math and reading on the National Assessment of Educational Progress (NAEP) than any other State between 1992 and 1996. Texas also showed significant progress in closing the

achievement gap between minority and white students. A recent study by RAND researchers concluded that the most plausible explanation for these gains is the effort by both States to align their systems of standards, curriculum, and assessments, and to hold schools accountable for the improvement of all students.

In developing its 1999 ESEA reauthorization proposal, the Administration drew on the experience of implementing the 1994 Act, efforts to measure program performance under the Government Performance and Results Act, and a review of Congressionally mandated evaluations of Title I and other programs. These efforts also were informed and enriched by conversations with hundreds of teachers, principals, parents, community activists, and State and local officials nationwide. Four themes emerged again and again during this process, and these same themes are found throughout the Educational Excellence for All Children Act of 1999: (1) a firm commitment to high standards in every classroom, (2) improving teacher and principal quality to ensure quality instruction for all children, (3) strengthening accountability for results coupled with flexibility, and, (4) ensuring safe, healthy, disciplined, and drug-free school environments where all children feel connected, motivated, and challenged to learn and where parents are welcomed and involved. To ensure that States adopt policies and practices that promote high quality education for all children, ESEA requires States receiving grants under the Act to adopt policies and programs incorporating these important themes.

High Standards in Every Classroom

The next step in education improvement is to take the high standards set at the Statehouse and move them to schools and classrooms. The Educational Excellence for All Children Act of 1999 renews the Federal commitment to high standards for all children and promotes this next stage of standards-based reform by helping States, districts, schools, and teachers use challenging State standards to guide classroom instruction and student assessment. The bill also supports high standards by helping children to read well and by providing extra resources to help all students succeed. The proposal would:

- Raise student performance by increasing academic standards. The proposal would support implementation of challenging standards and aligned assessments in every State. Title I of the ESEA would continue to focus on high expectations for all children, retaining the current statutory requirement that States establish content standards, student performance standards, and assessments aligned with the standards by the 2000-01 school year. Title II includes a specific authorization to help States and school districts align instruction, curriculum, assessments, and professional development to challenging academic standards.
- Implement continuous improvement and accountability based on challenging standards. States will hold all school districts accountable, and school districts will hold schools accountable, for continuous and substantial gains in overall student performance and in the performance of the lowest-performing students.
- Provide teachers with up-to-date training and support through a new Teaching to High Standards initiative. States have made great strides in developing standards, but only 36 percent of teachers report that they feel very well prepared to teach to high standards. The

Title II Teaching to High Standards initiative would help schools and school districts give teachers the tools and training they need to help students reach high standards.

- Put useful technology into schools and classrooms to help teachers teach to high standards. The Technology for Education initiative would help teachers, particularly in high-poverty districts, use technology to teach students to challenging State standards, for instance by using distance learning to get challenging subject matter into all classrooms.
- Strengthen the teaching of reading and reduce class size. The bill would continue the Class-Size Reduction initiative, which seeks to reduce class size in the first through third grades to a nationwide average of 18 students, to ensure that all students receive the individual attention they need to read well and independently by the end of the third grade. It would continue the Reading Excellence Act, which focuses on professional development, extended learning time, and family literacy. Improvements in the Even Start family literacy program would increase the intensity and quality of family literacy services, while a new initiative in Title II would provide professional development for early childhood educators.
- Emphasize math and science education by earmarking the first \$300 million of the Teaching to High Standards grants under Title II for professional development in those subjects. In particular, these funds would help States and school districts take full advantage of new research and curricular materials aimed at improving the teaching and learning of mathematics. The bill also would reauthorize the Eisenhower National Clearinghouse for Mathematics and Science Education and the Eisenhower Regional Mathematics and Science Education Consortia.
- Improve foreign language instruction by setting a national goal that 25 percent of all public elementary schools offer high-quality, standards-based foreign language programs by the year 2005, rising to 50 percent by 2010. The bill would help States and districts meet this goal by supporting the development of foreign language standards and assessments, expanding the pool of elementary school foreign language teachers through improved recruitment and professional development efforts, and encouraging the use of educational technology in foreign language instruction.
- Focus on promoting equity, excellence, and public school choice options for all students. Recognizing that no one school or program can meet the unique needs of every student, public school choice provides students with the flexibility to choose among public schools and programs that differ with respect to educational settings, pedagogy, and academic emphasis. Title V will support programs that can enhance options for students and parents, including the Magnet Schools Program, the Public Charter Schools Program, and a new authority that will fund innovative options for public school choice.
- Continue to target education resources on areas of need. The bill also would continue to target Federal elementary and secondary education resources on those students furthest from meeting State and local standards, with a particular emphasis on narrowing the gap in achievement between disadvantaged students and their more fortunate peers. In this regard, the bill would also phase in equal treatment of Puerto Rico in ESEA funding formulas, so

that poor children in Puerto Rico are treated the same as those in the rest of the country for the purpose of formula allocations.

Strengthen Teacher and Principal Quality

Qualified teachers are critical to improving student achievement, yet too many teachers are not provided with on-going, high-quality professional development to help them improve and build on their teaching skills. In addition, many teachers leave the profession in their first three years, and far too many teachers are teaching in a field in which they were not trained. In Title I schools, an increasing number of unqualified teacher aides are providing direct instruction without supervision by a certified teacher. To address these problems and help ensure that every child in America has a talented and dedicated teacher who is prepared to help all children reach high standards, the President's bill would:

- Help teachers teach to high standards. The Title II Teaching to High Standards initiative would support State and local efforts to: (1) help teachers and principals align curricula and assessments with challenging State and local content standards; (2) provide teachers with sustained and intensive high-quality professional development in core academic content areas; (3) support new teachers during their first three years in the classroom; and, (4) help ensure that all teachers are proficient in content knowledge and teaching skills. This new initiative takes the place of, and incorporates the most successful elements of, three current State grant programs: Goals 2000, Eisenhower Professional Development, and ESEA Title VI Innovative Education Program Strategies.
- Expand recruitment and retention efforts to help meet the need for 2.2 million new teachers over the next decade. The Teaching to High Standards initiative would support State and local efforts to recruit and retain high-quality teachers in high-need areas. These efforts would include, for example, the creation of a national job bank and encouraging portability of licensure and other teaching credentials. The Teaching to High Standards initiative also would include a priority for school districts that support teachers in their first three years of teaching, a period when many good teachers leave the classroom. The Transition to Teaching initiative would expand the existing Troops to Teachers program to help non-military (as well as military) mid-career professionals become teachers, particularly in high-poverty school districts and high-need subject areas.
- Require certification for new teachers in Title I schools. Our proposal would require all new teachers in programs supported with Title I funds to be fully certified in the subject they teach. Two years after enactment of the bill, paraprofessionals with less than two years of college would be limited to non-instructional duties, while those with two or more years of college could provide instructional support and tutoring only under the supervision of a certified teacher. A new set-aside for professional development in Title I would help create a career-long professional learning environment for teachers in Title I schools.
- Strengthen the State teacher certification process. States would be required to ensure that, within four years, at least 95 percent of their teachers are either (1) fully certified,

(2) working toward full certification through an alternative route, or (3) fully certified in another State and working toward meeting any State-specific requirements. States will also be required to ensure that at least 95 percent of secondary school teachers have academic training or demonstrated competence in the subject area in which they teach.

- Help future teachers use advanced technology to improve classroom instruction. The Technology Literacy Challenge Fund would support sustained and intensive high quality professional development in school districts to increase teacher capacity to create improved learning environments through the integration of technology into instruction. The Preparing Tomorrow's Teachers to Use Technology initiative would support consortia of public and private entities to train new teachers to use technology to prepare students to achieve to challenging State and local standards.
- Train early childhood educators to prepare disadvantaged students for school. This Title II proposal would provide grants to partnerships of professional development providers, community-based early childhood programs, and school districts to provide high-quality professional development to early childhood providers. The emphasis would be on research-based approaches to professional development in language acquisition, literacy, and reading development.
- Train classroom teachers to teach students with limited English proficiency (LEP). Because LEP students are found in more and more classrooms, the proposed amended Title VII Bilingual Education program would support teacher education programs that develop the ability of regular classroom teachers to teach LEP students.

Strengthen Accountability for Student Performance

The 1994 laws provided States and districts with increased flexibility to coordinate, modify, and combine program funding and activities in exchange for greater accountability for improved educational achievement. States, districts, and schools have begun to take advantage of this increased flexibility, but too often without the necessary implementation of effective accountability mechanisms. Early research suggests, however, that it is precisely those States with the most comprehensive and effective accountability systems that are making the most progress in increasing expectations and standards for students and schools and improving student achievement.

The President's reauthorization proposal would retain the ESEA flexibility provisions included in the 1994 law, including the expansion of schoolwide programs, consolidation of administrative funds, and waiver procedures for regulatory and statutory provisions that stand in the way of innovative reform efforts. The bill also would retain and update the provisions of the Education Flexibility Partnerships Act of 1999, which expanded eligibility for ED-Flex authority to all States.

To help ensure that this enhanced flexibility leads to improved student achievement, the President is proposing several new accountability measures:

- Strengthen accountability for districts and schools. Our proposal would encourage States to develop one rigorous accountability system for all schools, including Title I schools, that requires them to make annual, substantial gains in student performance until every student is mastering challenging standards. States will be provided with flexibility by being able to use either the model outlined in the statute or an alternative that is at least as rigorous and effective. States without a single State-wide accountability system would be required to develop one for their Title I schools.
- Increase accountability to parents and the public through school report cards. States and school districts receiving ESEA funds would be required to produce and distribute annual report cards for each school, the school district, and the State. The report cards would include information on student achievement, teacher qualifications, class size, school safety, attendance, and graduation rates. Where appropriate, student achievement data would be broken out by demographic groups to identify any gaps between disadvantaged students and their peers.
- End the traditional practices of social promotion and retention, after a four-year transition period during which States would put into place educational practices targeting students who need additional help to meet State promotion standards. Such practices include early identification and intervention strategies, smaller classes with well-prepared teachers, high-quality professional development, greater family involvement, and extended learning time. Following the transition period, States and districts would require students to meet academic performance standards before being promoted at key transition points (e.g., fourth and eighth grade) or graduating from high school. State policies would use multiple measures, including an assessment valid for these purposes, to determine if a student has met the standards.
- Turn around low-performing schools. School districts would be required to identify publicly the lowest-performing schools that have not improved over two years and to implement interventions and provide technical assistance in these schools. Initial interventions could include implementing extended learning opportunities, proven school reform models; and extensive teacher training. If there is no satisfactory improvement in student performance within three years, districts would be required to take corrective actions, such as reconstituting the school by making wholesale staff changes or closing the school entirely and reopening it with new staff or as a charter school. States would be required to reserve 2.5 percent of their Title I LEA Grant funds (increasing to 3.5 percent in fiscal year 2003) to support interventions in failing schools, and would provide 70 percent of these funds to school districts to help them turn around low-performing schools.

Support Safe, Healthy, Disciplined, and Drug-Free Learning Environments

A critical prerequisite for achieving quality and excellence in education is a safe, healthy, disciplined, and drug-free learning environment that provides ample opportunities for each student to make connections with caring adults that support learning and personal development. Notwithstanding the recent tragedy at Columbine High School in Littleton, Colorado, survey data show that schools continue to be safe places in America's communities. Similar survey

data, however, show that drug and alcohol use remain disturbingly high in middle and high schools, discipline appears to be a growing problem, and more and more children are leading lifestyles involving little or no physical exercise.

Parents play a critical role in creating and maintaining a healthy learning environment, and the Educational Excellence for all Children Act of 1999 would retain and strengthen the emphasis on parental involvement first established by the 1994 Act.

The following provisions would support State and local efforts to create safe, healthy, disciplined, and drug-free learning environments in all of our schools:

- Help support and expand the connections between adults and students that are necessary for effective learning and healthy personal development through a High School Reform initiative. This new initiative would provide resources to help transform 5,000 high schools into places where students receive individual attention, are motivated to learn, are provided with challenging courses, and are encouraged to develop and pursue long-term higher education and career goals. Participating schools would serve as models to guide reform in all secondary schools.
- Require every school district and school to have a sound discipline policy. Our proposal will require States to hold school districts and schools accountable for having discipline policies that focus on prevention, are consistent and fair, and are developed with the participation of the school community.
- Emphasize parent involvement policies at the school and district levels and continue implementation of parent-school compacts.
- Improve the Parent Information and Resource Centers by focusing on high-poverty communities, encouraging the use of research-based models for increasing parent involvement, and emphasizing early literacy development.
- Expand access to information through technology by supporting community technology centers that make online education and training resources available to parents and other community members in high-poverty areas.
- Strengthen the Safe and Drug-Free Schools and Communities Act by concentrating funds on districts that have a significant need for drug- and violence-prevention and that are developing and implementing research-based prevention programs of proven effectiveness.
- Create a new School Emergency Response to Violence program (Project SERV) that would provide rapid assistance to school districts that have experienced violence or other trauma that disrupts the learning environment.

- Modify the Gun-Free Schools Act to require an assessment of any student who brings a firearm to school to determine if the student poses an imminent threat of harm and, in the case of students who are suspended or expelled from school, provide for appropriate supervision, counseling, and educational services.
- Promote physical fitness and lifelong healthy habits through demonstration projects. Exemplary physical education programs can promote life-long healthy habits, provide opportunities for students to connect to school, and become an important component of after-school programs.

Educational Excellence for All Children

The 1994 ESEA reauthorization marked a fundamental change in the Federal role in education by establishing the clear expectation that all children can and should reach high standards. Early results suggest that standards-based reform is a powerful tool for raising student achievement and for closing the achievement gap between economically disadvantaged students in high poverty schools and their more fortunate peers. The Educational Excellence for All Children Act of 1999 would build on this early success by reinforcing State and local efforts in key areas like bringing high standards into every classroom, strengthening teacher and principal quality, increasing accountability for student performance, and supporting safe, healthy, disciplined, and drug-free learning environments. The bill provides Congress a tremendous opportunity to support the changes needed to help all of our children reach high academic standards and to keep America strong and prosperous in the 21st century.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Irene Bueno (CN=Irene Bueno/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:18-MAY-1999 14:11:41.00

SUBJECT: NACARA Roll-out document

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Scott Busby (CN=Scott Busby/OU=NSC/O=EOP @ EOP [NSC])

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: Erica R. Morris (CN=Erica R. Morris/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

In my edits to the INS Press document on the NACARA reg, I suggest adding to the last paragraph on the first page some recognition of the President's role in this process and the sentence would therefore read:

"As President Clinton directed, this new program is the culmination of the Administration's efforts to create as accessible and simple a process as the law permits," says INS Commissioner Meissiner.

Please let me know if you have any concerns adding this reference to the President.

Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAY-1999 14:08:50.00

SUBJECT: copycats

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

READ:UNKNOWN

TEXT:

We'd like to suggest changing the copycat guidance -- seems to blame the media in a way that puts us right in the middle of those stories. What do you think?