

NLWJC - KAGAN

EMAILS RECEIVED

ARMS - BOX 053 - FOLDER -003

[06/18/1999-01/10/2001]

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Michael Waldman to George Stephanopoulos et al re Electoral Map (1 page)	11/06/2000	Personal Misfile
002. email	Bruce Reed to Elena Kagan re Test (1 page)	01/10/2001	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[06/18/1999-01/10/2001]

2009-1006-F

kc171

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]

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.

- 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]

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

June 18, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

2. Crime -- Juvenile Crime/Gun Bills: Today, the House voted down its gun bill on final passage by a vote of 147-280. In the most closely watched votes, last night the House passed the Dingell gun show amendment 218-211, and rejected the McCarthy gun show substitute by a vote of 235-193. The House also passed additional amendments throughout today, including provisions to: (1) ban the importation of large capacity ammunition clips (voice vote); (2) require child safety locks for handguns (311-115); (3) ban juvenile possession of semiautomatic assault weapons (354-69); (4) ban violent juveniles from owning guns as adults (395-27); (5) allow current and former law enforcement officers to carry concealed weapons (372-53); (6) revise background check requirements for guns redeemed at pawnshops (247-181); and (7) allow D.C. residents to keep handguns in their homes (213-208). The House rejected an amendment to overturn a broader D.C. law that prohibits D.C. residents from possessing handguns. In addition, Hyde withdrew his amendment to prohibit handgun sales to youths under age 21.

Since the overall gun bill failed, the juvenile bill passed by the House yesterday (287-139) will proceed to conference without significant gun provisions. Before completing work on the juvenile crime bill, the House approved a number of amendments including an IDEA amendment allowing schools to expel disabled students for bringing weapons to school and a bipartisan Goodling amendment on juvenile prevention. The House also passed amendments to mandate a Surgeon General report on youth violence, and require schools and libraries to install blocking technology on computers with Internet access. We will send forward a memo with a summary of the bill's final provisions.

2. Health Care -- Senate passes Jeffords-Kennedy Work Incentives Legislation: On Wednesday, the Senate unanimously voted (99 to 0) to pass the Jeffords-Kennedy Work Incentives Improvement Act. We released a statement on your behalf praising the Senate's action and urging the House to move promptly to schedule a vote on this legislation. Our goal remains trying to work out an agreement to secure final passage prior to the 9th anniversary of the signing of the ADA (July 26th). The primary roadblock will be obtaining an agreement on offsets to pay for this legislation. Senator Kennedy is reporting that you made a commitment to help accomplish this; we are working to develop acceptable financing mechanisms. **(This was already in the daily report on Wednesday).**

3. Immigration -- Urban Institute Report: A new report to be released by the Urban Institute next week finds that families with mixed immigration status -- some family members are citizens, others not -- are quite prevalent. According to 1998 Current Population Survey data 10 percent of children in the U.S. live in such mixed status households. The report underscores that benefit and immigration policies that distinguish between citizens and non-citizens can affect individuals living in such families. For example, a citizen child living with immigrant parents will have access to fewer food stamps because of his parents' ineligibility and would likely have to leave the U.S. if his undocumented parents are deported. The report does acknowledge that the Administration's recent clarification on the issue of public charge will encourage families to obtain the benefits for which they are eligible.

4. Tobacco -- Funding for Federal Litigation: In the FY2000 budget we requested a \$20 million appropriation to reimburse the Department of Justice for tobacco-related litigation expenses. However, neither the House nor the Senate bills provides for the additional funds. Moreover, the Senate bill's report language specifically states "no funds are provided" for tobacco litigation. While this is not a prohibition on use of DOJ funds -- instead it is probably a simple statement noting that the Administration's request was not included -- the language is ambiguous enough to concern many of our allies. Several Democratic Senators are considering offering amendments on the floor clarifying that the Department of Justice has the authority to fund such litigation. Since we are concerned we might lose such a vote we are working with Legislative Affairs and DOJ on developing other ways to clarify the issue.

5. Welfare -- Vice President Announces New Paternity Numbers: At the Family Reunion Conference in Nashville on Monday, the Vice President will release new data showing that the number of fathers establishing paternity has tripled since 1992. Nearly 1.5 million men acknowledged paternity in 1998, an increase of 12 percent in one year alone and three times as many as in 1992. Most of the increase is due to the success of the in-hospital paternity establishment program included in your 1993 budget: in 1998, 40 percent of paternities (over 600,000) were established through in-hospital programs. The Vice President will describe paternity as a critical first step in increasing fathers' involvement with their children, which was the subject of the 1994 Family Reunion conference.

6. Welfare -- Legal Immigrants: Senators Chafee, McCain, Graham, Mack, Moynihan, and Jeffords introduced legislation this week which would give states the option to provide health care coverage through Medicaid and CHIP for children and pregnant women who are legal immigrants, regardless of when they arrived in the U.S. This proposal is similar to the one week similar to the provision in your budget. Under current law, states can provide health coverage to children and pregnant women who entered the country before August 22, 1996 but may not use federal funds to cover legal immigrant children who entered after that date. HHS estimates our proposal would provide health care coverage to over 55,000 children and 23,000 pregnant women. As part of our effort to draw attention to the Chafee-McCain bill, we issued a statement

from you praising the bipartisan proposal but also saying that more needs to be done to restore food stamp and SSI eligibility for legal immigrants as proposed in your budget.

7. Welfare -- Urban Labor Markets: A new Urban Institute report confirms earlier findings that the number of jobs created on a national level has been more than adequate to absorb welfare recipients entering the labor market, as well as the record numbers of single mothers. It also presents a relatively encouraging picture of how well 20 major urban labor markets can absorb welfare recipients. The report finds that 16 of the 20 cities will be able to absorb the number of welfare recipients entering the job market without any adverse impact on other job seekers. In fact, 12 areas (including Atlanta, Chicago, Dallas, Indianapolis, Houston, Los Angeles, Phoenix, and San Jose), low-skill employment growth will outpace the number of welfare recipients entering the job market and the low skill unemployment rate will continue to decline even with the influx of welfare recipients. The report points to challenges in New York City, Baltimore, D.C., and St. Louis where job markets may have a hard time absorbing welfare recipients. New York faces a combination of low employment growth and high numbers of welfare recipients whereas in the other three cities the challenge is primarily related to low job growth. On average in the 20 cities, welfare recipients entering the job market only represent about 1 percent of low skill jobs; however, the ratio is nearly 4 percent in New York.

These findings are generally encouraging, but support the need for more job creation in distressed areas through your New Markets Initiative. They also underscore the need for your welfare to work transportation and housing vouchers to ensure inner city residents can take advantage of the job growth throughout the metropolitan area.

8. Welfare Reform -- Father Absence in Black America: A politically diverse coalition of black and white scholars, community and religious leaders, joined together last week to release a compelling report and call to action on the crisis of fatherlessness in the black community. Seventy percent of African American children are born to unmarried mothers; up from one-third when Senator Moynihan released his then controversial report 34 years ago. They called for significant investments to improve the economic prospects and marriagability of black men, federal support for community-based fatherhood programs, and changes in policies that discourage marriage (such as the marriage penalty in the EITC). They also called on the black leaders to give the same priority to reuniting fathers and children as they have to civil rights, asked churches to focus on family healing, recommended that communities support faith-based marriage education and mentoring programs, and urged the criminal justice system to help reconnect fathers and children. This report is especially significant because the participants managed to find substantial areas of common ground on both the significance of the problem and proposed solutions, despite historical differences regarding the role of marriage and competing theories of socioeconomic versus cultural factors in the breakdown of the black family. The report grew out of a conference last Fall sponsored by Morehouse College, with diverse participants including Bill Rasberry, William Julius Wilson, David Blankenhorn, and Wade

Horn. Our FY 2000 initiatives address some of the recommendations in the report, including the enhanced focus on fathers in our Welfare-to-Work reauthorization that you announced in January. We will carefully review the recommendations to see what else we might do.

9. Welfare -- Young Child Poverty Rate: A report released last week by the National Center for Children in Poverty highlighted positive trends in both the number and rate of young children (under six) in poverty. Consistent with data we have highlighted before, the young child poverty rate declined from a high of 26 percent (6.4 million children) in 1993 to 22 percent (5.2 million children) in 1997. This decline came after a 52 percent increase between 1978 and 1993. With a higher proportion of poor young children with working parents and a declining percentage receiving public assistance, the study also confirms earlier findings that families are relying less on welfare and more on work. The report also finds: (1) without our 1993 EITC expansion, the 1997 young child poverty rate would have been 24 percent higher; (2) key determinants of young child poverty are single parenthood, low educational attainment, and part-time or no employment; and (3) the gap between races continues to narrow.

10. Education -- Test Use Guide/Oversight Hearing: The Education Department's Office for Civil Rights is continuing its work on a guide for policymakers and educators on the use of high stakes tests. During the review process, a copy of the draft guide was leaked to the WSJ and Chronicle of Higher Education and the guide has been the subject of several critical op-eds alleging, among other things, that OCR is attempting to eliminate the use of SATs in college admissions. We, along with staff from Counsel's office and Justice are reviewing the guide and assisting the Department with strategies for combating the erroneous impression that the guide is designed to curtail the use of high stakes tests. Rep. Hoekstra has asked Assistant Secretary of OCR, Norma Cantu, to testify before the Oversight committee next week. She has been asked to discuss the high-stakes testing guide, enforcement of Title IX in athletics and bilingual education.

At the hearing, committee members may also ask Cantu about issues related to charter schools and desegregation. The Justice Department has been asked to sign on to a motion from the East Baton Rouge school district asking a Court to approve the expansion this fall of two charter schools serving predominantly African-American students. The Justice Department has expressed an openness to support the request, but it has not yet received information that it has requested of the school district to help evaluate the impact of the proposed expansions on the district's ability to comply with a consent decree. Meanwhile, Clint Bolick and the Institute of Justice have become involved, suggesting that the Justice Department may oppose these expansions, seeking to represent parents trying to start a third charter school, and arguing that charter schools should not be subject to consent decrees and desegregation orders.
(Bruce, do we really want to include this? pjw)

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:21-JUN-1999 14:19:26.00

SUBJECT: Daily Report

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

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

TO: Janet L. Yellen (CN=Janet L. Yellen/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

TO: Glyn T. Davies (CN=Glyn T. Davies/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN

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

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

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

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

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

READ:UNKNOWN

TO: Stephanie S. Streett (CN=Stephanie S. Streett/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: Charles F. Ruff (CN=Charles F. Ruff/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

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

TO: Thurgood Marshall Jr (CN=Thurgood Marshall Jr/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

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

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

TO: George T. Frampton (CN=George T. Frampton/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN

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

TO: KERRICK_D@a1 (KERRICK_D@a1 @ CD @ VAXGTWY [UNKNOWN]) (NSC)
READ:UNKNOWN

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

CC: Ann C. Hertelendy (CN=Ann C. Hertelendy/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

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

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

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

CC: Carolyn T. Wu (CN=Carolyn T. Wu/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

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

CC: Nina L. Hachigian (CN=Nina L. Hachigian/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN

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

CC: Justin L. Coleman (CN=Justin L. Coleman/OU=WHO/O=EOP@EOP [UNKNOWN])

READ:UNKNOWN

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

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

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

CC: Rebecca L. Walldorff (CN=Rebecca L. Walldorff/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

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

CC: Kris M Balderston (CN=Kris M Balderston/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

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

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

TEXT:

A reminder . . . please send daily report items to me by 3:00 p.m. today.
Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Oscar Gonzalez (CN=Oscar Gonzalez/OU=OMB/O=EOP [UNKNOWN])

CREATION DATE/TIME:21-JUN-1999 18:41:52.00

SUBJECT: LRM OGG28 - - LABOR Report on HR1381 Rewarding Performance in Compensation

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

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

TO: Robert L. Nabors (CN=Robert L. Nabors/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: 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: Darrell Park (CN=Darrell Park/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: James J. Jukes (CN=James J. Jukes/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: Adrienne C. Erbach (CN=Adrienne C. Erbach/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: Stuart Shapiro (CN=Stuart Shapiro/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: 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

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

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

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

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

TEXT:

Following is LRM ID: OGG 28. Please read and respond to it by 1:00 p.m., tomorrow, Tuesday, June 22, 1999. The draft testimony on which we request your comments totals 2 pages and is attached at the end of this LRM.

Agencies: Please contact me if you do not receive this e-mailed LRM in good working form. For your convenience, we will follow this e-mail by sending a copy by fax.

EOP staff: You will not receive a paper copy of this LRM.

----- Forwarded by Oscar Gonzalez/OMB/EOP on 06/21/99
06:37 PM -----

LRM ID: OGG28
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Monday, June 21, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution
below

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

OMB CONTACT: Oscar Gonzalez

PHONE: (202)395-7754 FAX: (202)395-6148

SUBJECT: LABOR Report on HR1381 Rewarding Performance in
Compensation Act

DEADLINE: 1pm Tuesday, June 22, 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 a letter from Labor Secretary Herman on HR 1381 to be presented to the House Committee on Education and Workforce prior to a markup of the bill on Wednesday, June 23rd. The letter is nearly identical to a previous Labor letter dated May 19th (See LRM ID: MNB72). Be advised that, like the previous letter, this letter contains a veto threat. Due to the short deadline, your immediate attention is

appreciated.

DISTRIBUTION LIST

AGENCIES:

- 25-COMMERCE - Michael A. Levitt - (202) 482-3151
- 61-JUSTICE - Jon P. Jennings - (202) 514-2141
- 107-Small Business Administration - Mary Kristine Swedin - (202) 205-6700
- 118-TREASURY - Richard S. Carro - (202) 622-0650

EOP:

- Barbara Chow
- Iratha H. Waters
- Barry White
- Larry R. Matlack
- Debra J. Bond
- Darrel Park
- Karen Tramontano
- Elena Kagan
- Broderick Johnson
- Sandra Yamin
- Daniel J. Chenok
- Stuart Shapiro
- Courtney B. Timberlake
- Robert G. Damus
- Robert L. Nabors
- Adrienne C. Erbach
- Brian V. Kennedy
- Sarah S. Lee
- Janet R. Forsgren
- James J. Jukes

LRM ID: OGG28 SUBJECT: LABOR Report on HR1381 Rewarding
 Performance in Compensation Act
 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: Oscar Gonzalez Phone: 395-7754 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

- FLSACOM4.WPD===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D54]ARMS27991887Z.136 to ASCII,
The following is a HEX DUMP:

FF575043A1100000010A02010000000205000000CC1D0000000200000C940DDB453CC753BA41601
E03676F68FD5C5B058A210CFD691ED54CF25FC46ADB335505E1F8386A9B53A7C5B9BDD41743DF8
81F1A20EA44591ACA4BB3CC920CEBB089F46DF5B13A609F51A1E2AE95F9A5B4F549A41F3387066
6C4DC6C1ECAD9F7A997EF3BBD6045B624971FB775B1D5B75C03F36D30BEA3FB5107350E2149FEB
E046AA9F0E54FF4AEA9A53F2DC39B3A839563C88B30A9B734AF841E2E6CBD9A547150F7402F8A4
BA963B75DCABC6BB96D0EA52D33D66530126B3EF9E10605450B8A32963EF48744F0608220861E2

The Honorable William F. Goodling
Chairman
Committee on Education and the Workforce
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Goodling:

I am writing to provide you with the views of the Department of Labor on H.R. 1381, the "Rewarding Performance in Compensation Act." This bill would amend the Fair Labor Standards Act (FLSA) to exclude from the definition of "regular rate," payments made to reward employees for meeting or exceeding productivity, quality, efficiency, or sales goals as specified in a gainsharing, incentive bonus, commission, or performance contingent bonus plan. The regular rate is the basis for calculating overtime premium (time-and-a-half pay). As I previously advised Subcommittee Chairman Ballenger in my letter of May 19, 1999, the effect of this amendment would be to diminish employees' entitlements to overtime premium pay under the FLSA. Accordingly, if H.R. 1381 were presented to the President, I would recommend that he veto it.

This bill would substantially reverse the FLSA's long-standing overtime policy and drastically weaken existing protections for workers to receive true time-and-a-half overtime premium pay. Moreover, H.R. 1381 does nothing to guarantee that workers would ever share in their employers' gains from their having to work excessive overtime hours.

The bill would allow an employer to pay artificially low hourly wages and structure a compensation scheme with "excludable" bonus pay that is based upon production or efficiency, enabling an employer to effectively transfer much of its risk to the workers. The bill would not guarantee workers the right to receive any incentive compensation, but it would guarantee employers the right to exclude any such pay from overtime. Workers' only rights would be overtime at time-and-a-half of an artificially reduced hourly wage, not their true regular rate. This bill would encourage employers to have their employees work for longer hours at lower earnings, the opposite of the original intent of the FLSA's overtime standards--to limit the detrimental impact that long work hours can have on the health, efficiency and general well-being of workers.

This bill would undermine workers' rights and the 40-hour workweek. These requirements, which have been in place for over 60 years, provide vital worker protections that discourage employers from having employees work excessively long hours and ensure fair compensation to employees for the burdens of working extended hours for their employer. The Department of Labor strongly opposes H.R. 1381 because it is contrary to the best interests of the Nation's workers who would be affected by it.

The Office of Management and Budget has advised that there is no objection to the presentation of this report and that enactment of H.R. 1381 would not be in accord with the President's program.

Sincerely,

Alexis M. Herman

Automated Records Management System
Hex-Dump Conversion

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Oscar Gonzalez (CN=Oscar Gonzalez/OU=OMB/O=EOP [UNKNOWN])

CREATION DATE/TIME:21-JUN-1999 11:50:04.00

SUBJECT: REMINDER on LRM OGG25 - - LABOR Report on HR987 Workplace Preservation Act

TO: Stephen G. Elmore (CN=Stephen G. Elmore/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: Courtney B. Timberlake (CN=Courtney B. Timberlake/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: Melany Nakagiri (CN=Melany Nakagiri/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: 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: Yvette M. Dennis (CN=Yvette M. Dennis/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

TO: Brian V. Kennedy (CN=Brian V. Kennedy/OU=OPD/O=EOP@EOP [OPD])
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: 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: Melissa N. Benton (CN=Melissa N. Benton/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

TEXT:

This is a reminder that your comments on the Labor testimony on LRM OGG25
- - LABOR Report on HR987 Workplace Preservation Act are due at
noon today. If you've already responded, please disregard this message.
If you have not, please provide any comments to me ASAP. If I don't hear
from you, I'll assume you have no objections to the testimony in its
current form.

Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:21-JUN-1999 12:31:40.00

SUBJECT: Justice testimony on HR 1304

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

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

TEXT:

Message Creation Date was at 21-JUN-1999 12:28:00

On Friday, I circulated to you for review and comment testimony from Joel Klein

for a hearing tomorrow morning before the House Judiciary Committee on legislation that would create an antitrust exemption for certain physicians.

JUSTICE strongly opposes the legislation. Also, the FTC has publicly opposed this legislation.

Justice is anxious to get its statement to the Committee - please give me your comments/signoff by no later than 3:00 p.m. today. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Robert J. Pellicci (CN=Robert J. Pellicci/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:21-JUN-1999 12:28:39.00

SUBJECT: Justice testimony on HR 1304

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

TO: JENNINGS_C@A1@CD@LNGTWY (JENNINGS_C@A1@CD@LNGTWY [UNKNOWN]) (WHO)
READ:UNKNOWN

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

TO: KAGAN_E@A1@CD@LNGTWY (KAGAN_E@A1@CD@LNGTWY [UNKNOWN])
READ:UNKNOWN

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

TEXT:

On Friday, I circulated to you for review and comment testimony from Joel Klein for a hearing tomorrow morning before the House Judiciary Committee on legislation that would create an antitrust exemption for certain physicians. JUSTICE strongly opposes the legislation. Also, the FTC has publicly opposed this legislation.

Justice is anxious to get its statement to the Committee - please give me your comments/signoff by no later than 3:00 p.m. today. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:21-JUN-1999 13:52:59.00

SUBJECT: RLPA

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

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

TEXT:

The House Judiciary Committee will mark up RLPA this Wednesday. Nadler will offer his amendment to limit the bill to small landlords (in the case of housing laws) and small employers (in the case of employment laws). His amendment will probably fail and the bill will probably be reported out, both by voice votes. Canady says he has a commitment for floor time so we can expect a bill on the floor fairly soon. At that point, Nadler may offer his amendment again if the Rules Committee lets him. The prospects in the Senate are unclear. Hatch has not yet introduced a bill. He hold an "informational" hearing this Wednesday.

It seems unlikely that the religious coalition and the bill's opponents will reach some compromise, at least in the near future. We could try to get them in the same room and get very involved in attempting to broker something, but I don't think either side has an incentive to agree to anything. That dynamic may change when the bill reaches the Senate. In the meantime, I think we need to meet to discuss the Administration's response to the bill and the Nadler amendment.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ingrid M. Schroeder (CN=Ingrid M. Schroeder/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:21-JUN-1999 09:47:28.00

SUBJECT: LRM #IMS 24 - OMB Request for Views on HR775 (as amended by the Senate) Ye

TO: valrm (valrm @ mail.va.gov @ inet [UNKNOWN])
READ:UNKNOWN

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

TO: seclegis (seclegis @ sec.gov @ inet [UNKNOWN])
READ:UNKNOWN

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

TO: ocl (ocl @ ios.doi.gov @ inet [UNKNOWN])
READ:UNKNOWN

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

TO: legis (legis @ fema.gov @ inet [UNKNOWN])
READ:UNKNOWN

TO: epalrm (epalrm @ epamail.epa.gov @ inet [UNKNOWN])
READ:UNKNOWN

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

TO: cpsc-cr (cpsc-cr @ cpsc.gov @ inet [UNKNOWN])
READ:UNKNOWN

TO: vince.ancell@usda.gov (vince.ancell@usda.gov @ inet [UNKNOWN])
READ:UNKNOWN

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

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

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

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

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

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

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

READ:UNKNOWN

TO: Sonyia Matthews (CN=Sonya Matthews/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

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

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

TO: Phyllis Kaiser-Dark (CN=Phyllis Kaiser-Dark/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

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

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

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

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

TO: toby.costanzo (toby.costanzo @ hq.nasa.gov @ inet [UNKNOWN])
READ:UNKNOWN

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

TO: HUD LRM@hud.gov (HUD LRM@hud.gov @ inet [UNKNOWN])
READ:UNKNOWN

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

TO: fdiclrm (fdiclrm @ fdic.gov @ inet [UNKNOWN])
READ:UNKNOWN

TO: energy.gc71 (energy.gc71 @ hq.doe.gov @ inet [UNKNOWN])
READ:UNKNOWN

TO: dodlrs (dodlrs @ osdgc.osd.mil @ inet [UNKNOWN])
READ:UNKNOWN

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

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

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

TO: Dee Lee (CN=Dee Lee/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: Mathew C. Blum (CN=Mathew C. Blum/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

TO: Jasmeet K. Seehra (CN=Jasmeet K. Seehra/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

TO: John A. Koskinen (CN=John A. Koskinen/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: Shannon Mason (CN=Shannon Mason/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

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

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

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

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

CC: Micheal D. Hunter (CN=Micheal D. Hunter/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

TEXT:

LRM ID: IMS24
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Monday, June 21, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution
below
FROM: Richard E. Green (for) Assistant Director for
Legislative Reference
OMB CONTACT: Ingrid M. Schroeder
PHONE: (202)395-3883 FAX: (202)395-3109
SUBJECT: OMB Request for Views on HR775 (as amended by the Senate)
Year 2000 Readiness and Responsibility Act

DEADLINE: 3pm Wednesday, June 23, 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 HR 775 as amended by the Senate on June 15, 1999. Please provide comments ASAP so that the Administration can comment on the bill in conference. The bill text can be found on the internet in THOMAS as the engrossed Senate amendment to HR 775.

DISTRIBUTION LIST

AGENCIES:

6-AGRICULTURECONG AFFAIRS - Vince Ancell (Testimony) - (202) 720-7095
25-COMMERCE - Michael A. Levitt - (202) 482-3151
27-Consumer Product Safety Commission - Robert J. Wager - (301) 504-0515
29-DEFENSE - Samuel T. Brick Jr. - (703) 697-1305
30-EDUCATION - Jack Kristy - (202) 401-8313
32-ENERGY - Bob Rabben - (202) 586-6721
33-Environmental Protection Agency - John Reeder - (202) 260-5414
37-Federal Deposit Insurance Corporation - Alice C. Goodman - (202) 898-8730
39-Federal Emergency Management Agency - Ernest B. Abbott - (202) 646-4105
51-General Services Administration - William R. Ratchford - (202) 501-0563
52-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7760
54-HOUSING & URBAN DEVELOPMENT - Allen I. Polsby - (202) 708-1793
59-INTERIOR - Jane Lyder - (202) 208-4371
61-JUSTICE - Jon P. Jennings - (202) 514-2141
62-LABOR - Robert A. Shapiro - (202) 219-8201
69-National Aeronautics and Space Administration - Ed Heffernan - (202) 358-1948
108-Securities and Exchange Commission - Susan M. Ochs - (202) 942-0016
107-Small Business Administration - Mary Kristine Swedin - (202) 205-6700
114-STATE - Paul Rademacher - (202) 647-4463
117 & 340-TRANSPORTATION - Tom Herlihy - (202) 366-4687
118-TREASURY - Richard S. Carro - (202) 622-0650
129-VETERANS AFFAIRS - John H. Thompson - (202) 273-6666

EOP:

Sarah Rosen
John E. Thompson
Lisa M. Brown
David W. Beier
Daniel Marcus
Sally Katzen
Phyllis Kaiser-Dark
Shannon Mason
Sara Wilson
Caroline R. Fredrickson
Lisa M. Kountoupes
John A. Koskinen
Sonyia Matthews
Elena Kagan
David J. Haun
Jasmeet K. Sehra
Timothy R. Fain
Ellen J. Balis

Linda B. Oliver
Mathew C. Blum
Steven D. Aitken
Robert G. Damus
Sandra Yamin
Dee Lee
Donald R. Arbuckle
Joshua Gotbaum
Victoria A. Wachino
Janet B. Abrams

LRM ID: IMS24 SUBJECT: OMB Request for Views on HR775 (as amended
by the Senate) Year 2000 Readiness and Responsibility Act
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: Ingrid M. Schroeder Phone: 395-3883 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

TEXT:

<p>HR 775 EAS

<p><center>In the Senate of the United States,</center>

<p><center>June 15, 1999.</center>

<p> Resolved, That the bill from the House of Representatives (H.R. 775) entitled 'An Act to establish certain procedures for civil actions brought for damages relating to the failure of any device or system to process or otherwise deal with the transition from the year 1999 to the year 2000, and for other purposes.', do pass with the following

<p>AMENDMENT:

<p>Strike out all after the enacting clause and insert:

<p><h3>SECTION 1. SHORT TITLE; TABLE OF SECTIONS.</h3>

<p> (a) SHORT TITLE- This Act may be cited as the 'Y2K Act'.

<p> (b) TABLE OF SECTIONS- The table of sections for this Act is as follows:

<p>Sec. 1. Short title; table of sections.

<p>Sec. 2. Findings and purposes.

<p>Sec. 3. Definitions.

<p>Sec. 4. Application of Act.

<p>Sec. 5. Punitive damages limitations.

<p>Sec. 6. Proportionate liability.

<p>Sec. 7. Prelitigation notice.

<p>Sec. 8. Pleading requirements.

<p>Sec. 9. Duty to mitigate.

<p>Sec. 10. Application of existing impossibility or commercial impracticability doctrines.

<p>Sec. 11. Damages limitation by contract.

<p>Sec. 12. Damages in tort claims.

<p>Sec. 13. State of mind; bystander liability; control.

<p>Sec. 14. Appointment of special masters or magistrate judges for Y2K actions.

<p>Sec. 15. Y2K actions as class actions.

<p>Sec. 16. Applicability of State law.

<p>Sec. 17. Admissible evidence ultimate issue in State courts.

<p>Sec. 18. Suspension of penalties for certain year 2000 failures by small business concerns.

<p><h3>SEC. 2. FINDINGS AND PURPOSES.</h3>

<p> (a) FINDINGS- The Congress finds that:

<p> (1) (A) Many information technology systems, devices, and programs are not capable of recognizing certain dates in 1999 and after December 31, 1999, and will read dates in the year 2000 and thereafter as if those dates represent the year 1900 or thereafter or will fail to process dates after December 31, 1999.

<p> (B) If not corrected, the problem described in subparagraph (A) and resulting failures could incapacitate systems that are essential to the functioning of markets, commerce, consumer products, utilities, Government, and safety and defense systems, in the United States and throughout the world.

<p> (2) It is in the national interest that producers and users of technology products concentrate their attention and resources in the time remaining before January 1, 2000, on assessing, fixing, testing, and developing contingency plans to address any and all outstanding year 2000 computer date-change problems, so as to minimize possible disruptions associated with computer failures.

<p> (3) (A) Because year 2000 computer date-change problems may aff

ect virtually all businesses and other users of technology products to some degree, there is a substantial likelihood that actual or potential year 2000 failures will prompt a significant volume of litigation, much of it insubstantial.

(B) The litigation described in subparagraph (A) would have a range of undesirable effects, including the following:

(i) It would threaten to waste technical and financial resources that are better devoted to curing year 2000 computer date-change problems and ensuring that systems remain or become operational.

(ii) It could threaten the network of valued and trusted business and customer relationships that are important to the effective functioning of the national economy.

(iii) It would strain the Nation's legal system, causing particular problems for the small businesses and individuals who already find that system inaccessible because of its complexity and expense.

(iv) The delays, expense, uncertainties, loss of control, adverse publicity, and animosities that frequently accompany litigation of business disputes could exacerbate the difficulties associated with the date change and work against the successful resolution of those difficulties.

(4) It is appropriate for the Congress to enact legislation to assure that Y2K problems do not unnecessarily disrupt interstate commerce or create unnecessary caseloads in Federal courts and to provide initiatives to help businesses prepare and be in a position to withstand the potentially devastating economic impact of Y2K.

(5) Resorting to the legal system for resolution of Y2K problems is not feasible for many businesses and individuals who already find the legal system inaccessible, particularly small businesses and individuals who already find the legal system inaccessible, because of its complexity and expense.

(6) The delays, expense, uncertainties, loss of control, adverse publicity, and animosities that frequently accompany litigation of business disputes can only exacerbate the difficulties associated with the Y2K date change, and work against the successful resolution of those difficulties.

(7) Concern about the potential for liability--in particular, concern about the substantial litigation expense associated with defending against even the most insubstantial lawsuits--is prompting many persons and businesses with technical expertise to avoid projects aimed at curing year 2000 computer date-change problems.

(8) A proliferation of frivolous Y2K lawsuits by opportunistic parties may further limit access to courts by straining the resources of the legal system and depriving deserving parties of their legitimate rights to relief.

(9) Congress encourages businesses to approach their Y2K disputes responsibly, and to avoid unnecessary, time-consuming and costly litigation about Y2K failures, particularly those that are not material. Congress supports good faith negotiations between parties when there is a dispute over a Y2K problem, and, if necessary, urges the parties to enter into voluntary, nonbinding mediation rather than litigation.

(b) PURPOSES- Based upon the power of the Congress under Article I, Section 8, Clause 3 of the Constitution of the United States, the purposes of this Act are--

(1) to establish uniform legal standards that give all businesses and users of technology products reasonable incentives to solve Y2K computer date-change problems before they develop;

(2) to encourage continued Y2K remediation and testing efforts by providers, suppliers, customers, and other contracting partners;

<p> (3) to encourage private and public parties alike to resolve Y2K disputes by alternative dispute mechanisms in order to avoid costly and time-consuming litigation, to initiate those mechanisms as early as possible, and to encourage the prompt identification and correction of Y2K problems; and

<p> (4) to lessen the burdens on interstate commerce by discouraging insubstantial lawsuits while preserving the ability of individuals and businesses that have suffered real injury to obtain complete relief.

<p><h3>SEC. 3. DEFINITIONS.</h3>

<p> In this Act:

<p> (1) Y2K ACTION- The term `Y2K action'--

<p> (A) means a civil action commenced in any Federal or State court, or an agency board of contract appeal proceeding, in which the plaintiff's alleged harm or injury resulted from a Y2K failure;

<p> (B) includes a civil action commenced in any Federal or State court by a governmental entity when acting in a commercial or contracting capacity; but

<p> (C) does not include an action brought by a governmental entity acting in a regulatory, supervisory, or enforcement capacity.

<p> (2) Y2K FAILURE- The term `Y2K failure' means failure by any device or system (including any computer system and any microchip or integrated circuit embedded in another device or product), or any software, firmware, or other set or collection of processing instructions to process, to calculate, to compare, to sequence, to display, to store, to transmit, or to receive year-2000 date-related data, including failures--

<p> (A) to deal with or account for transitions or comparisons from, into, and between the years 1999 and 2000 accurately;

<p> (B) to recognize or accurately to process any specific date in 1999, 2000, or 2001; or

<p> (C) accurately to account for the year 2000's status as a leap year, including recognition and processing of the correct date on February 29, 2000.

<p> (3) GOVERNMENT ENTITY- The term `government entity' means an agency, instrumentality, or other entity of Federal, State, or local government (including multijurisdictional agencies, instrumentalities, and entities).

<p> (4) MATERIAL DEFECT- The term `material defect' means a defect in any item, whether tangible or intangible, or in the provision of a service, that substantially prevents the item or service from operating or functioning as designed or according to its specifications. The term `material defect' does not include a defect that--

<p> (A) has an insignificant or de minimis effect on the operation or functioning of an item or computer program;

<p> (B) affects only a component of an item or program that, as a whole, substantially operates or functions as designed; or

<p> (C) has an insignificant or de minimis effect on the efficacy of the service provided.

<p> (5) PERSONAL INJURY- The term `personal injury' means physical injury to a natural person, including--

<p> (A) death as a result of a physical injury; and

<p> (B) mental suffering, emotional distress, or similar injuries suffered by that person in connection with a physical injury.

<p> (6) STATE- The term `State' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Northern Mar

iana Islands, the United States Virgin Islands, Guam, American Samoa, and any other territory or possession of the United States, and any political subdivision thereof.

(7) CONTRACT- The term 'contract' means a contract, tariff, license, or warranty.

(8) ALTERNATIVE DISPUTE RESOLUTION- The term 'alternative dispute resolution' means any process or proceeding, other than adjudication by a court or in an administrative proceeding, to assist in the resolution of issues in controversy, through processes such as early neutral evaluation, mediation, minitrial, and arbitration.

SEC. 4. APPLICATION OF ACT.

(a) GENERAL RULE- This Act applies to any Y2K action brought in a State or Federal court after January 1, 1999, for a Y2K failure occurring before January 1, 2003, including any appeal, remand, stay, or other judicial, administrative, or alternative dispute resolution proceeding in such an action.

(b) NO NEW CAUSE OF ACTION CREATED- Nothing in this Act creates a new cause of action, and, except as otherwise explicitly provided in this Act, nothing in this Act expands any liability otherwise imposed or limits any defense otherwise available under Federal or State law.

(c) CLAIMS FOR PERSONAL INJURY OR WRONGFUL DEATH EXCLUDED- This Act does not apply to a claim for personal injury or for wrongful death.

(d) Contract Preservation-

(1) IN GENERAL- Subject to paragraph (2), in any Y2K action any written contractual term, including a limitation or an exclusion of liability, or a disclaimer of warranty, shall be strictly enforced unless the enforcement of that term would manifestly and directly contravene applicable State law embodied in any statute in effect on January 1, 1999, specifically addressing that term.

(2) INTERPRETATION OF CONTRACT- In any Y2K action in which a contract to which paragraph (1) applies is silent as to a particular issue, the interpretation of the contract as to that issue shall be determined by applicable law in effect at the time the contract was executed.

(e) PREEMPTION OF STATE LAW- This Act supersedes State law to the extent that it establishes a rule of law applicable to a Y2K action that is inconsistent with State law, but nothing in this Act implicates, alters, or diminishes the ability of a State to defend itself against any claim on the basis of sovereign immunity.

(f) APPLICATION WITH YEAR 2000 INFORMATION AND READINESS DISCLOSURE ACT- Nothing in this Act supersedes any provision of the Year 2000 Information and Readiness Disclosure Act.

(g) APPLICATION TO ACTIONS BROUGHT BY A GOVERNMENTAL ENTITY-

(1) IN GENERAL- To the extent provided in this subsection, this Act shall apply to an action brought by a governmental entity described in section 3(1)(C).

(2) DEFINITIONS- In this subsection:

(A) DEFENDANT-

(i) IN GENERAL- The term 'defendant' includes a State or local government.

(ii) STATE- The term 'State' means each of the several States of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Commonwealth of the Northern Mariana Islands.

(iii) LOCAL GOVERNMENT- The term 'local government' means--

(I) any county, city, town, township, parish, village, or other general purpose political subdivision of a State; and

<p> (II) any combination of political subdivisions described in subclause (I) recognized by the Secretary of Housing and Urban Development.

<p> (B) Y2K UPSET- The term `Y2K upset'--

<p> (i) means an exceptional incident involving temporary noncompliance with applicable federally enforceable measurement or reporting requirements because of factors related to a Y2K failure that are beyond the reasonable control of the defendant charged with compliance; and

<p> (ii) does not include--

<p> (I) noncompliance with applicable federally enforceable requirements that constitutes or would create an imminent threat to public health, safety, or the environment;

<p> (II) noncompliance with applicable federally enforceable requirements that provide for the safety and soundness of the banking or monetary system, including the protection of depositors;

<p> (III) noncompliance to the extent caused by operational error or negligence;

<p> (IV) lack of reasonable preventative maintenance;

<p> (V) lack of preparedness for Y2K.

<p> (3) CONDITIONS NECESSARY FOR A DEMONSTRATION OF A Y2K UPSET- A defendant who wishes to establish the affirmative defense of Y2K upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that--

<p> (A) the defendant previously made a good faith effort to effectively remediate Y2K problems;

<p> (B) a Y2K upset occurred as a result of a Y2K system failure or other Y2K emergency;

<p> (C) noncompliance with the applicable federally enforceable measurement or reporting requirement was unavoidable in the face of a Y2K emergency or was intended to prevent the disruption of critical functions or services that could result in the harm of life or property;

<p> (D) upon identification of noncompliance the defendant invoking the defense began immediate actions to remediate any violation of federally enforceable measurement or reporting requirements; and

<p> (E) the defendant submitted notice to the appropriate Federal regulatory authority of a Y2K upset within 72 hours from the time that it became aware of the upset.

<p> (4) GRANT OF A Y2K UPSET DEFENSE- Subject to the other provisions of this subsection, the Y2K upset defense shall be a complete defense to any action brought as a result of noncompliance with federally enforceable measurement or reporting requirements for any defendant who establishes by a preponderance of the evidence that the conditions set forth in paragraph (3) are met.

<p> (5) LENGTH OF Y2K UPSET- The maximum allowable length of the Y2K upset shall be not more than 15 days beginning on the date of the upset unless granted specific relief by the appropriate regulatory authority.

<p> (6) VIOLATION OF A Y2K UPSET- Fraudulent use of the Y2K upset defense provided for in this subsection shall be subject to penalties provided in section 1001 of title 18, United States Code.

<p> (7) EXPIRATION OF DEFENSE- The Y2K upset defense may not be asserted for a Y2K upset occurring after June 30, 2000.

<p> (h) CREDIT PROTECTION FROM YEAR 2000 Failures-

<p> (1) IN GENERAL- No person who transacts business on matters directly or indirectly affecting mortgages, credit accounts, banking, or other fi

financial transactions shall cause or permit a foreclosure, default, or other adverse action against any other person as a result of the improper or incorrect transmission or inability to cause transaction to occur, which is caused directly or indirectly by an actual or potential Y2K failure that results in an inability to accurately or timely process any information or data, including data regarding payments and transfers.

(2) SCOPE- The prohibition of such adverse action to enforce obligations referred to in paragraph (1) includes but is not limited to mortgages, contracts, landlord-tenant agreements, consumer credit obligations, utilities, and banking transactions.

(3) ADVERSE CREDIT INFORMATION- The prohibition on adverse action in paragraph (1) includes the entry of any negative credit information to any credit reporting agency, if the negative credit information is due directly or indirectly by an actual or potential disruption of the proper processing of financial responsibilities and information, or the inability of the consumer to cause payments to be made to creditors where such inability is due directly or indirectly to an actual or potential Y2K failure.

(4) ACTIONS MAY RESUME AFTER PROBLEM IS FIXED- No enforcement or other adverse action prohibited by paragraph (1) shall resume until the obligor has a reasonable time after the full restoration of the ability to regularly receive and dispense data necessary to perform the financial transaction required to fulfill the obligation.

(5) SUBSECTION DOES NOT APPLY TO NON-Y2K-RELATED PROBLEMS- This subsection shall not affect transactions upon which a default has occurred prior to a Y2K failure that disrupts financial or data transfer operations of either party.

(6) ENFORCEMENT OF OBLIGATIONS MERELY TOLLED- This subsection delays but does not prevent the enforcement of financial obligations.

SEC. 5. PUNITIVE DAMAGES LIMITATIONS.

(a) IN GENERAL- In any Y2K action in which punitive damages are permitted by applicable law, the defendant shall not be liable for punitive damages unless the plaintiff proves by clear and convincing evidence that the applicable standard for awarding damages has been met.

(b) Caps on Punitive Damages-

(1) IN GENERAL- Subject to the evidentiary standard established by subsection (a), punitive damages permitted under applicable law against a defendant described in paragraph (2) in a Y2K action may not exceed the lesser of--

(A) 3 times the amount awarded for compensatory damages; or

(B) \$250,000.

(2) DEFENDANT DESCRIBED- A defendant described in this paragraph is a defendant--

(A) who--

(i) is sued in his or her capacity as an individual; and

(ii) whose net worth does not exceed \$500,000; or

(B) that is an unincorporated business, a partnership, corporation, association, or organization with fewer than 50 full-time employees.

(3) NO CAP IF INJURY SPECIFICALLY INTENDED- Paragraph (1) does not apply if the plaintiff establishes by clear and convincing evidence that the defendant acted with specific intent to injure the plaintiff.

(c) GOVERNMENT ENTITIES- Punitive damages in a Y2K action may not be awarded against a government entity.

SEC. 6. PROPORTIONATE LIABILITY.

(a) IN GENERAL- Except as provided in subsections (b) and (c), a p

erson against whom a final judgment is entered in a Y2K action shall be liable solely for the portion of the judgment that corresponds to the relative and proportional responsibility of that person. In determining the percentage of responsibility of any defendant, the trier of fact shall determine that percentage as a percentage of the total fault of all persons, including the plaintiff, who caused or contributed to the total loss incurred by the plaintiff.

(b) Proportionate Liability-

(1) DETERMINATION OF RESPONSIBILITY- In any Y2K action, the court shall instruct the jury to answer special interrogatories, or, if there is no jury, the court shall make findings with respect to each defendant, including defendants who have entered into settlements with the plaintiff or plaintiffs, concerning--

(A) the percentage of responsibility, if any, of each defendant, measured as a percentage of the total fault of all persons who caused or contributed to the loss incurred by the plaintiff; and

(B) if alleged by the plaintiff, whether the defendant (other than a defendant who has entered into a settlement agreement with the plaintiff)--

(i) acted with specific intent to injure the plaintiff; or

(ii) knowingly committed fraud.

(2) CONTENTS OF SPECIAL INTERROGATORIES OR FINDINGS- The responses to interrogatories or findings under paragraph (1) shall specify the total amount of damages that the plaintiff is entitled to recover and the percentage of responsibility of each defendant found to have caused or contributed to the loss incurred by the plaintiff.

(3) FACTORS FOR CONSIDERATION- In determining the percentage of responsibility under this subsection, the trier of fact shall consider--

(A) the nature of the conduct of each person found to have caused or contributed to the loss incurred by the plaintiff; and

(B) the nature and extent of the causal relationship between the conduct of each such person and the damages incurred by the plaintiff.

(c) Joint Liability for Specific Intent or Fraud-

(1) IN GENERAL- Notwithstanding subsection (a), the liability of a defendant in a Y2K action is joint and several if the trier of fact specifically determines that the defendant--

(A) acted with specific intent to injure the plaintiff; or

(B) knowingly committed fraud.

(2) Fraud; recklessness-

(A) KNOWING COMMISSION OF FRAUD DESCRIBED- For purposes of subsection (b) (1) (B) (ii) and paragraph (1) (B) of this subsection, a defendant knowingly committed fraud if the defendant--

(i) made an untrue statement of a material fact, with actual knowledge that the statement was false;

(ii) omitted a fact necessary to make the statement not to be misleading, with actual knowledge that, as a result of the omission, the statement was false; and

(iii) knew that the plaintiff was reasonably likely to rely on the false statement.

(B) RECKLESSNESS- For purposes of subsection (b) (1) (B) and paragraph (1) of this subsection, reckless conduct by the defendant does not constitute either a specific intent to injure, or the knowing commission of fraud, by the defendant.

(3) RIGHT TO CONTRIBUTION NOT AFFECTED- Nothing in this section affects the right, under any other law, of a defendant to contribution with r

respect to another defendant found under subsection (b)(1)(B), or determined under paragraph (1)(B) of this subsection, to have acted with specific intent to injure the plaintiff or to have knowingly committed fraud.

(d) Special Rules-

(1) UNCOLLECTIBLE SHARE-

(A) IN GENERAL- Notwithstanding subsection (a), if, upon motion made not later than 6 months after a final judgment is entered in any Y2K action, the court determines that all or part of the share of the judgment against a defendant for compensatory damages is not collectible against that defendant, then each other defendant in the action is liable for the uncollectible share as follows:

(i) PERCENTAGE OF NET WORTH- The other defendants are jointly and severally liable for the uncollectible share if the plaintiff establishes that--

(I) the plaintiff is an individual whose recoverable damages under the final judgment are equal to more than 10 percent of the net worth of the plaintiff; and

(II) the net worth of the plaintiff is less than \$200,000.

(ii) OTHER PLAINTIFFS- For a plaintiff not described in clause (i), each of the other defendants is liable for the uncollectible share in proportion to the percentage of responsibility of that defendant, except that the total liability of a defendant under this clause may not exceed 50 percent of the proportionate share of that defendant, as determined under subsection (b)(2).

(B) OVERALL LIMIT- The total payments required under subparagraph (A) from all defendants may not exceed the amount of the uncollectible share.

(C) SUBJECT TO CONTRIBUTION- A defendant against whom judgment is not collectible is subject to contribution and to any continuing liability to the plaintiff on the judgment.

(2) SPECIAL RIGHT OF CONTRIBUTION- To the extent that a defendant is required to make an additional payment under paragraph (1), that defendant may recover contribution--

(A) from the defendant originally liable to make the payment;

(B) from any other defendant that is jointly and severally liable;

(C) from any other defendant held proportionately liable who is liable to make the same payment and has paid less than that other defendant's proportionate share of that payment; or

(D) from any other person responsible for the conduct giving rise to the payment that would have been liable to make the same payment.

(3) NONDISCLOSURE TO JURY- The standard for allocation of damages under subsection (a) and subsection (b)(1), and the procedure for reallocation of uncollectible shares under paragraph (1) of this subsection, shall not be disclosed to members of the jury.

(e) Settlement Discharge-

(1) IN GENERAL- A defendant who settles a Y2K action at any time before final verdict or judgment shall be discharged from all claims for contribution brought by other persons. Upon entry of the settlement by the court, the court shall enter a bar order constituting the final discharge of all obligations to the plaintiff of the settling defendant arising out of the action. The order shall bar all future claims for contribution arising out of the action--

(A) by any person against the settling defendant; and

(B) by the settling defendant against any person other than a person whose liability has been extinguished by the settlement of the settl

ing defendant.

(2) REDUCTION- If a defendant enters into a settlement with the plaintiff before the final verdict or judgment, the verdict or judgment shall be reduced by the greater of--

(A) an amount that corresponds to the percentage of responsibility of that defendant; or

(B) the amount paid to the plaintiff by that defendant.

(f) General Right of Contribution-

(1) IN GENERAL- A defendant who is jointly and severally liable for damages in any Y2K action may recover contribution from any other person who, if joined in the original action, would have been liable for the same damages. A claim for contribution shall be determined based on the percentage of responsibility of the claimant and of each person against whom a claim for contribution is made.

(2) STATUTE OF LIMITATIONS FOR CONTRIBUTION- An action for contribution in connection with a Y2K action shall be brought not later than 6 months after the entry of a final, nonappealable judgment in the Y2K action, except that an action for contribution brought by a defendant who was required to make an additional payment under subsection (d)(1) may be brought not later than 6 months after the date on which such payment was made.

(g) MORE PROTECTIVE STATE LAW NOT PREEMPTED- Nothing in this section preempts or supersedes any provision of State statutory law that--

(1) limits the liability of a defendant in a Y2K action to a lesser amount than the amount determined under this section; or

(2) otherwise affords a greater degree of protection from joint or several liability than is afforded by this section.

SEC. 7. PRELITIGATION NOTICE.

(a) IN GENERAL- Before commencing a Y2K action, except an action that seeks only injunctive relief, a prospective plaintiff with a Y2K claim shall send a written notice by certified mail (with either return receipt requested or other means of verification that the notice was sent) to each prospective defendant in that action. The notice shall provide specific and detailed information about--

(1) the manifestations of any material defect alleged to have caused harm or loss;

(2) the harm or loss allegedly suffered by the prospective plaintiff;

(3) how the prospective plaintiff would like the prospective defendant to remedy the problem;

(4) the basis upon which the prospective plaintiff seeks that remedy; and

(5) the name, title, address, and telephone number of any individual who has authority to negotiate a resolution of the dispute on behalf of the prospective plaintiff.

(b) PERSON TO WHOM NOTICE TO BE SENT- The notice required by subsection (a) shall be sent--

(1) to the registered agent of the prospective defendant for service of legal process;

(2) if the prospective defendant does not have a registered agent, then to the chief executive officer of a corporation, the managing partner of a partnership, the proprietor of a sole proprietorship, or to a similarly-situated person for any other enterprise; or

(3) if the prospective defendant has designated a person to receive prelitigation notices on a Year 2000 Internet Website (as defined in section 3(7) of the Year 2000 Information and Readiness Disclosure Act), to the designated person, if the prospective plaintiff has reasonable access to the Internet.

(c) Response to Notice-

<p> (1) IN GENERAL- Within 30 days after receipt of the notice specified in subsection (a), each prospective defendant shall send by certified mail with return receipt requested to each prospective plaintiff a written statement acknowledging receipt of the notice, and describing the actions it has taken or will take to address the problem identified by the prospective plaintiff.

<p> (2) WILLINGNESS TO ENGAGE IN ADR- The written statement shall state whether the prospective defendant is willing to engage in alternative dispute resolution.

<p> (3) INADMISSABILITY- A written statement required by this paragraph is not admissible in evidence, under Rule 408 of the Federal Rules of Evidence or any analogous rule of evidence in any State, in any proceeding to prove liability for, or the invalidity of, a claim or its amount, or otherwise as evidence of conduct or statements made in compromise negotiations.

>
<p> (4) PRESUMPTIVE TIME OF RECEIPT- For purposes of paragraph (1), a notice under subsection (a) is presumed to be received 7 days after it was sent.

<p> (5) PRIORITY- A prospective defendant receiving more than 1 notice under this section may give priority to notices with respect to a product or service that involves a health or safety related Y2K failure.

<p> (d) FAILURE TO RESPOND- If a prospective defendant--

<p> (1) fails to respond to a notice provided pursuant to subsection (a) within the 30 days specified in subsection (c) (1); or

<p> (2) does not describe the action, if any, the prospective defendant has taken, or will take, to address the problem identified by the prospective plaintiff,

<p>the prospective plaintiff may immediately commence a legal action against that prospective defendant.

<p> (e) Remediation Period-

<p> (1) IN GENERAL- If the prospective defendant responds and proposes remedial action it will take, or offers to engage in alternative dispute resolution, then the prospective plaintiff shall allow the prospective defendant an additional 60 days from the end of the 30-day notice period to complete the proposed remedial action before commencing a legal action against that prospective defendant.

<p> (2) EXTENSION BY AGREEMENT- The prospective plaintiff and prospective defendant may change the length of the 60-day remediation period by written agreement.

<p> (3) MULTIPLE EXTENSIONS NOT ALLOWED- Except as provided in paragraph (2), a defendant in a Y2K action is entitled to no more than one 30-day period and one 60-day remediation period under paragraph (1).

<p> (4) STATUTES OF LIMITATION, ETC., TOLLED- Any applicable statute of limitations or doctrine of laches in a Y2K action to which paragraph (1) applies shall be tolled during the notice and remediation period under that paragraph.

<p> (f) FAILURE TO PROVIDE NOTICE- If a defendant determines that a plaintiff has filed a Y2K action without providing the notice specified in subsection (a) or without awaiting the expiration of the appropriate waiting periods specified in subsection (c), the defendant may treat the plaintiff's complaint as such a notice by so informing the court and the plaintiff in its initial response to the plaintiff. If any defendant elects to treat the complaint as such a notice--

<p> (1) the court shall stay all discovery and all other proceedings in the action for the appropriate period after filing of the complaint; and

<p> (2) the time for filing answers and all other pleadings shall be tolled during the appropriate period.

<p> (g) EFFECT OF CONTRACTUAL OR STATUTORY WAITING PERIODS- In cases i

n which a contract, or a statute enacted before January 1, 1999, requires notice of nonperformance and provides for a period of delay prior to the initiation of suit for breach or repudiation of contract, the period of delay provided by contract or the statute is controlling over the waiting period specified in subsections (c) and (d).

(h) STATE LAW CONTROLS ALTERNATIVE METHODS- Nothing in this section supersedes or otherwise preempts any State law or rule of civil procedure with respect to the use of alternative dispute resolution for Y2K actions.

(i) PROVISIONAL REMEDIES UNAFFECTED- Nothing in this section interferes with the right of a litigant to provisional remedies otherwise available under Rule 65 of the Federal Rules of Civil Procedure or any State rule of civil procedure providing extraordinary or provisional remedies in any civil action in which the underlying complaint seeks both injunctive and monetary relief.

(j) SPECIAL RULE FOR CLASS ACTIONS- For the purpose of applying this section to a Y2K action that is maintained as a class action in Federal or State court, the requirements of the preceding subsections of this section apply only to named plaintiffs in the class action.

SEC. 8. PLEADING REQUIREMENTS.

(a) APPLICATION WITH RULES OF CIVIL PROCEDURE- This section applies exclusively to Y2K actions and, except to the extent that this section requires additional information to be contained in or attached to pleadings, nothing in this section is intended to amend or otherwise supersede applicable rules of Federal or State civil procedure.

(b) NATURE AND AMOUNT OF DAMAGES- In all Y2K actions in which damages are requested, there shall be filed with the complaint a statement of specific information as to the nature and amount of each element of damages and the factual basis for the damages calculation.

(c) MATERIAL DEFECTS- In any Y2K action in which the plaintiff alleges that there is a material defect in a product or service, there shall be filed with the complaint a statement of specific information regarding the manifestations of the material defects and the facts supporting a conclusion that the defects are material.

(d) REQUIRED STATE OF MIND- In any Y2K action in which a claim is asserted on which the plaintiff may prevail only on proof that the defendant acted with a particular state of mind, there shall be filed with the complaint, with respect to each element of that claim, a statement of the facts giving rise to a strong inference that the defendant acted with the required state of mind.

SEC. 9. DUTY TO MITIGATE.

Damages awarded in any Y2K action shall exclude compensation for damages the plaintiff could reasonably have avoided in light of any disclosure or other information of which the plaintiff was, or reasonably should have been, aware, including information made available by the defendant to purchasers or users of the defendant's product or services concerning means of remedying or voiding the Y2K failure.

SEC. 10. APPLICATION OF EXISTING IMPOSSIBILITY OR COMMERCIAL IMPRACTICABILITY DOCTRINES.

In any Y2K action for breach or repudiation of contract, the applicability of the doctrines of impossibility and commercial impracticability shall be determined by the law in existence on January 1, 1999. Nothing in this Act shall be construed as limiting or impairing a party's right to assert defenses based upon such doctrines.

SEC. 11. DAMAGES LIMITATION BY CONTRACT.

In any Y2K action for breach or repudiation of contract, no party may claim, nor be awarded, any category of damages unless such damages are allowed--

- (1) by the express terms of the contract; or
- (2) if the contract is silent on such damages, by operation of

State law at the time the contract was effective or by operation of Federal law.

SEC. 12. DAMAGES IN TORT CLAIMS.

(a) IN GENERAL- A party to a Y2K action making a tort claim may not recover damages for economic loss unless--

(1) the recovery of such losses is provided for in a contract to which the party seeking to recover such losses is a party; or

(2) such losses result directly from damage to tangible personal or real property caused by the Y2K failure (other than damage to property that is the subject of the contract between the parties to the Y2K action or, in the event there is no contract between the parties, other than damage caused only to the property that experienced the Y2K failure),

and such damages are permitted under applicable Federal or State law.

(b) ECONOMIC LOSS- For purposes of this section only, and except as otherwise specifically provided in a valid and enforceable written contract between the plaintiff and the defendant in a Y2K action, the term "economic loss"

(1) means amounts awarded to compensate an injured party for any loss other than losses described in subsection (a)(2); and

(2) includes amounts awarded for damages such as--

(A) lost profits or sales;

(B) business interruption;

(C) losses indirectly suffered as a result of the defendant's wrongful act or omission;

(D) losses that arise because of the claims of third parties;

(E) losses that must be plead as special damages; and

(F) consequential damages (as defined in the Uniform Commercial Code or analogous State commercial law).

(c) CERTAIN ACTIONS EXCLUDED- This section does not affect, abrogate, amend, or alter any patent, copyright, trade-secret, trademark, or service-mark action, or any claim for defamation or invasion of privacy under Federal or State law.

(d) CERTAIN OTHER ACTIONS- A person liable for damages, whether by settlement or judgment, in a civil action to which this Act does not apply because of section 4(c) whose liability, in whole or in part, is the result of a Y2K failure may, notwithstanding any other provision of this Act, pursue any remedy otherwise available under Federal or State law against the person responsible for that Y2K failure to the extent of recovering the amount of those damages.

SEC. 13. STATE OF MIND; BYSTANDER LIABILITY; CONTROL.

(a) DEFENDANT'S STATE OF MIND- In a Y2K action other than a claim for breach or repudiation of contract, and in which the defendant's actual or constructive awareness of an actual or potential Y2K failure is an element of the claim, the defendant is not liable unless the plaintiff establishes that element of the claim by the standard of evidence under applicable State law in effect before January 1, 1999.

(b) Limitation on Bystander Liability for Y2K Failures-

(1) IN GENERAL- With respect to any Y2K action for money damages in which--

(A) the defendant is not the manufacturer, seller, or distributor of a product, or the provider of a service, that suffers or causes the Y2K failure at issue;

(B) the plaintiff is not in substantial privity with the defendant; and

<p> (C) the defendant's actual or constructive awareness of an actual or potential Y2K failure is an element of the claim under applicable law,

<p>the defendant shall not be liable unless the plaintiff, in addition to establishing all other requisite elements of the claim, proves, by the standard of evidence under applicable State law in effect before January 1, 1999, that the defendant actually knew, or recklessly disregarded a known and substantial risk, that such failure would occur.

<p> (2) SUBSTANTIAL PRIVACY- For purposes of paragraph (1)(B), a plaintiff and a defendant are in substantial privacy when, in a Y2K action arising out of the performance of professional services, the plaintiff and the defendant either have contractual relations with one another or the plaintiff is a person who, prior to the defendant's performance of such services, was specifically identified to and acknowledged by the defendant as a person for whose special benefit the services were being performed.

<p> (3) CERTAIN CLAIMS EXCLUDED- For purposes of paragraph (1)(C), claims in which the defendant's actual or constructive awareness of an actual or potential Y2K failure is an element of the claim under applicable law do not include claims for negligence but do include claims such as fraud, constructive fraud, breach of fiduciary duty, negligent misrepresentation, and interference with contract or economic advantage.

<p> (c) CONTROL NOT DETERMINATIVE OF LIABILITY- The fact that a Y2K failure occurred in an entity, facility, system, product, or component that was sold, leased, rented, or otherwise within the control of the party against whom a claim is asserted in a Y2K action shall not constitute the sole basis for recovery of damages in that action. A claim in a Y2K action for breach or repudiation of contract for such a failure is governed by the terms of the contract.

<p> (d) PROTECTIONS OF THE YEAR 2000 INFORMATION AND READINESS DISCLOSURE ACT APPLY- The protections for the exchanges of information provided by section 4 of the Year 2000 Information and Readiness Disclosure Act (Public Law 105-271) shall apply to this Act.

<p><h3>SEC. 14. APPOINTMENT OF SPECIAL MASTERS OR MAGISTRATE JUDGES FOR Y2K ACTIONS.</h3>

<p> Any District Court of the United States in which a Y2K action is pending may appoint a special master or a magistrate judge to hear the matter and to make findings of fact and conclusions of law in accordance with Rule 53 of the Federal Rules of Civil Procedure.

<p><h3>SEC. 15. Y2K ACTIONS AS CLASS ACTIONS.</h3>

<p> (a) MATERIAL DEFECT REQUIREMENT- A Y2K action involving a claim that a product or service is defective may be maintained as a class action in Federal or State court as to that claim only if--

<p> (1) it satisfies all other prerequisites established by applicable Federal or State law, including applicable rules of civil procedure; and

<p> (2) the court finds that the defect in a product or service as alleged would be a material defect for the majority of the members of the class.

<p> (b) NOTIFICATION- In any Y2K action that is maintained as a class action, the court, in addition to any other notice required by applicable Federal or State law, shall direct notice of the action to each member of the class, which shall include--

<p> (1) a concise and clear description of the nature of the action;

<p> (2) the jurisdiction where the case is pending; and

<p> (3) the fee arrangements with class counsel, including the hourly fee being charged, or, if it is a contingency fee, the percentage of the final award which will be paid, including an estimate of the total amount that would be paid if the requested damages were to be granted.

<p> (c) Forum for Y2K Class Actions-

<p> (1) JURISDICTION- Except as provided in paragraph (2), a Y2K action may be brought as a class action in a United States District Court or removed to a United States District Court if the amount in controversy is greater than the sum or value of \$1,000,000 (exclusive of interest and costs), computed on the basis of all claims to be determined in the action.

<p> (2) EXCEPTION- A Y2K action may not be brought or removed as a class action under this section if--

<p> (A) (i) a substantial majority of the members of the proposed plaintiff class are citizens of a single State;

<p> (ii) the primary defendants are citizens of that State; and

<p> (iii) the claims asserted will be governed primarily by the law of that State; or

<p> (B) the primary defendants are States, State officials, or other governmental entities against whom the United States District Court may be foreclosed from ordering relief.

<p> (d) EFFECT ON RULES OF CIVIL PROCEDURE- Except as otherwise provided in this section, nothing in this section supersedes any rule of Federal or State civil procedure applicable to class actions.

<p><h3>SEC. 16. APPLICABILITY OF STATE LAW.</h3>

<p> Nothing in this Act shall be construed to affect the applicability of any State law that provides greater limits on damages and liabilities than are provided in this Act.

<p><h3>SEC. 17. ADMISSIBLE EVIDENCE ULTIMATE ISSUE IN STATE COURTS.</h3>

<p> Any party to a Y2K action in a State court in a State that has not adopted a rule of evidence substantially similar to Rule 704 of the Federal Rules of Evidence may introduce in such action evidence that would be admissible if Rule 704 applied in that jurisdiction.

<p><h3>SEC. 18. SUSPENSION OF PENALTIES FOR CERTAIN YEAR 2000 FAILURES BY SMALL BUSINESS CONCERNS.</h3>

<p> (a) DEFINITIONS- In this section--

<p> (1) the term `agency' means any executive agency, as defined in section 105 of title 5, United States Code, that has the authority to impose civil penalties on small business concerns;

<p> (2) the term `first-time violation' means a violation by a small business concern of a Federal rule or regulation (other than a Federal rule or regulation that relates to the safety and soundness of the banking or monetary system, including protection of depositors) resulting from a Y2K failure if that Federal rule or regulation had not been violated by that small business concern within the preceding 3 years; and

<p> (3) the term `small business concern' has the same meaning as a defendant described in section 5(b)(2)(B).

<p> (b) ESTABLISHMENT OF LIAISONS- Not later than 30 days after the date of enactment of this section each agency shall--

<p> (1) establish a point of contact within the agency to act as a liaison between the agency and small business concerns with respect to problems arising out of Y2K failures and compliance with Federal rules or regulations; and

<p> (2) publish the name and phone number of the point of contact for the agency in the Federal Register.

<p> (c) GENERAL RULE- Subject to subsections (d) and (e), no agency shall impose any civil money penalty on a small business concern for a first-time violation.

<p> (d) STANDARDS FOR WAIVER- In order to receive a waiver of civil money penalties from an agency for a first-time violation, a small business concern shall demonstrate that--

<p> (1) the small business concern previously made a good faith effort to effectively remediate Y2K problems;

<p> (2) a first-time violation occurred as a result of the Y2K system failure of the small business concern or other entity, which affected the small business concern's ability to comply with a federal rule or regulation;

<p> (3) the first-time violation was unavoidable in the face of a Y2K system failure or occurred as a result of efforts to prevent the disruption of critical functions or services that could result in harm to life or property;

<p> (4) upon identification of a first-time violation, the small business concern initiated reasonable and timely measures to remediate the violation; and

<p> (5) the small business concern submitted notice to the appropriate agency of the first-time violation within a reasonable time not to exceed 7 business days from the time that the small business concern became aware that a first-time violation had occurred.

<p> (e) EXCEPTIONS- An agency may impose civil money penalties authorized under Federal law on a small business concern for a first-time violation if --

<p> (1) the small business concern's failure to comply with Federal rules or regulations constitutes or creates an imminent threat to public health, safety, or the environment; or

<p> (2) the small business concern fails to correct the violation not later than 1 month after initial notification to the agency.

<p>Attest:

<p>Secretary.

<p><center>106th CONGRESS</center>

<p><center>1st Session</center>

<p><center>H. R. 775</center>

<p><center>AMENDMENT</center>

<p>HR 775 EAS----2

<p>HR 775 EAS----3

<p>HR 775 EAS----4

<p>HR 775 EAS----5

<p>END
===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Oscar Gonzalez (CN=Oscar Gonzalez/OU=OMB/O=EOP [UNKNOWN])

CREATION DATE/TIME:22-JUN-1999 13:06:26.00

SUBJECT: REMINDER on LRM OGG25 - - LABOR Report on HR987 Workplace Preservation Act

TO: James J. Jukes (CN=James J. Jukes/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: Adrienne C. Erbach (CN=Adrienne C. Erbach/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: Stuart Shapiro (CN=Stuart Shapiro/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: PARK_D@A1@CD@VAXGTWY@VAXGTWY (PARK_D@A1@CD@VAXGTWY@VAXGTWY [UNKNOWN]) (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: Janet R. Forsgren (CN=Janet R. Forsgren/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

TO: Robert L. Nabors (CN=Robert L. Nabors/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: 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: 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

TEXT:

This is a reminder that your comments on the Labor testimony on LRM OGG25 - - LABOR Report on HR987 Workplace Preservation Act were due at one today. If you've already responded, please disregard this message. If you have not, please provide any comments to me ASAP. Due to the fact that this letter carries a veto threat, more steps are required in the clearance process, and I must therefore move forward as quickly as possible. If I don't hear from you within the hour, I'll have to assume you have no objections to the testimony in its current form.

Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:22-JUN-1999 20:18:16.00

SUBJECT: FINAL CLEARANCE -- 9:30AM Wed 6/23 DEADLINE -- DRAFT SAP -- HR 2084 -- DoT

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

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

TO: George T. Frampton (CN=George T. Frampton/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN

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

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

TO: Wesley P. Warren (CN=Wesley P. Warren/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN

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

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

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

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

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

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

TO: Miles M. Lackey (CN=Miles M. Lackey/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN

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

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

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

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

TO: Martha Foley (CN=Martha Foley/OU=WHO/O=EOP@EOP [WHO])

READ:UNKNOWN

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

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

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

CC: Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN

CC: Courtney O. Gregoire (CN=Courtney O. Gregoire/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

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

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

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

CC: Dawn L. Smalls (CN=Dawn L. Smalls/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

CC: Linda Ricci (CN=Linda Ricci/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

CC: Rebecca L. Walldorff (CN=Rebecca L. Walldorff/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

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

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

CC: Lisa Zweig (CN=Lisa Zweig/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

CC: Scott R. Hynes (CN=Scott R. Hynes/O=OVP@OVP [UNKNOWN])
READ:UNKNOWN

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

CC: Mara E. Rudman (CN=Mara E. Rudman/OU=NSC/O=EOP@EOP [UNKNOWN])
READ:UNKNOWN

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

READ:UNKNOWN

CC: Carolyn T. Wu (CN=Carolyn T. Wu/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

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

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

CC: Mark J. Tavlarides (CN=Mark J. Tavlarides/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN

CC: Victoria A. Wachino (CN=Victoria A. Wachino/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

CC: Judy Jablow (CN=Judy Jablow/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN

CC: Elizabeth Gore (CN=Elizabeth Gore/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

TEXT:

Attached for your sign-off is a draft House Floor SAP for H.R. 2084 -- Department of Transportation and Related Agencies Appropriations Bill, FY00. HR 2084 is scheduled to go to the House floor for consideration at 10:00AM Wed., June 23. This draft SAP is virtually identical to the House Rules SAP sent last week. The only change is the addition of the last bullet (in Bold) relating to the air traffic control report language which the Administration signed last year.

Due to the short timeframe we have to clear this draft, we are doing a simultaneous clearance. Please provide your sign-off and/or comments no later than 9:30AM Tues. Thank you!

DRAFT NOT FOR RELEASE

June __, 1999

(House Floor)

H.R. 2084, DEPARTMENT OF TRANSPORTATION
AND RELATED AGENCIES APPROPRIATIONS BILL, FY 2000
(Sponsors: Young (R), Florida; Wolf (R), Virginia)

This Statement of Administration Policy provides the Administration's views on the Transportation and Related Agencies Appropriations Bill, FY 2000, as reported by the House Appropriations Committee. Your consideration of the Administration's views would be appreciated.

The Administration appreciates the Committee's efforts to accommodate many of the Administration's priorities within its 302(b) allocation, particularly the funding provided for Amtrak. However, the Administration is concerned about some of the choices made necessary by this allocation.

The President's FY 2000 Budget proposes levels of discretionary spending that meet important national needs while conforming to the Bipartisan Budget Agreement by making savings proposals in mandatory and other programs available to help finance vital spending needs. Congress has approved and the President has signed into law nearly \$29 billion of such offsets in appropriations legislation since 1995. The Administration urges the Congress to consider such proposals as the FY 2000 appropriations process moves forward.

The Administration proposes to meet important transportation safety, mobility, and environmental requirements by reallocating a portion of the increased spending permitted by higher-than-anticipated highway excise taxes. Under this proposal, every State would receive at least as much funding as was assumed when the Transportation Equity Act for the 21st Century was enacted. Last year, Congress chose to reallocate limited funding within the highway guarantee. The House is encouraged to build upon this by enacting the Administration's proposal as a means to fund these important priorities.

The Administration is concerned that the Committee bill could compromise the Federal Aviation Administration's (FAA's) operations and modernization programs, reduce highway and motor carrier safety, and under-fund other important programs. The House could partially accommodate the funding increases recommended below by adhering more closely to the President's request for the Airport Improvement Program, High Speed Rail, Coast Guard Alteration of Bridges, Coast Guard capital improvements, and other programs.

The Committee is commended for permitting transit discretionary grants to be allocated according to the needs-based formula agreed to in the Transportation Equity Act for the 21st Century, instead of arbitrarily restricting individual States' funding. The Committee is commended for not prematurely encouraging the closure of Coast Guard training facilities without regard to the results of the ongoing Coast Guard review as to the best use of those facilities.

The following highlights our specific concerns with the Committee bill.

Aviation Safety and Modernization

The Administration strongly urges the House to fully fund the Administration's request for FAA Operations. The \$114 million, or two-percent, reduction made by the Committee would force the FAA to close low-level towers, defer hiring of safety and security personnel needed to meet the demands of increased air travel, and possibly slow air travel. The Administration is concerned with the Committee's reduction of \$6.6 million in FAA's request for rental payments to the General Services

Administration. Since rent is a mandatory payment, FAA would have to reduce operating spending further to absorb this reduction.

The House is also urged to restore the \$119 million, or five-percent, reduction to the FAA Facilities and Equipment account. The Committee's funding level could undermine our National Airspace System modernization program. Safety projects as well as critically-needed capacity enhancing projects would be delayed, increasing future air travel delays. For example, the Administration urges the House to provide the requested \$17 million in critically-needed funding to ensure timely implementation of a Global Positioning System (GPS) modernization plan that will help enable transition to a more efficient, GPS-based air navigation system.

The Administration supports the Committee's decision to eliminate the General Fund subsidy for FAA Operations but urges the Congress to enact a user fee system to finance the agency. Such a system would improve the FAA's efficiency and effectiveness by creating new incentives for it to operate in a business-like manner.

Motor Carrier Safety

The Secretary of Transportation recently announced a comprehensive Motor Carrier Safety Action Plan to implement much-needed improvements in truck safety. The need for these improvements has been recognized by the Appropriations Committee and Congress overall, the Department of Transportation Inspector General, and an independent assessment conducted by former Congressman Mineta. The House is urged to provide the additional \$50 million for the National Motor Carrier Safety Grant program to undertake the improvements in enforcement, research, and data activities designed to increase safety on our Nation's roads and highways.

Highway Safety

The Administration is concerned that the Committee has provided \$36 million less than the President has requested for the National Highway Traffic Safety Administration's Operations and Research account. This funding reduction would limit important research activities on advanced air bags, crash worthiness, and the enhanced testing proposed in the New Car Assessment program to make better car safety information available to the public.

CAFE Standards

The Administration strongly opposes, and urges the House to drop, the prohibition of work on the corporate average fuel economy (CAFE) standards. These standards have resulted in a doubling of the fuel economy of the car fleet, saving the nation billions of gallons of oil and the consumer billions of dollars. Because prohibitions such as this have been enacted in recent years, the Department of Transportation has been unable to fully analyze this important issue. These prohibitions have limited the availability of important information that directly influences the Nation's environment.

Amtrak

The Committee is commended for funding Amtrak at \$571 million, the President's requested level and the level called for in Amtrak's

"glidepath" to self-sufficiency, and providing Amtrak with the flexibility to spend capital funds wisely by adopting for Amtrak the same definition of capital as used by transit grantees. The Administration would oppose efforts to fund Amtrak below this level because lower levels would jeopardize Amtrak's ability to achieve self-sufficiency by 2003 and could delay introduction of high-speed rail service in the Northeast Corridor and force other service reductions and route closures.

Livability Programs

The Administration is disappointed that the Committee bill funds transit formula grants at \$212 million below the President's request and the Transportation Community and Preservation Pilot program (TCSP) at \$25 million, or 50 percent, below the request. Further, the earmarking of the TCSP program would hinder the goal of improving land use by not permitting the development and identification of innovative new approaches. Finally, the Administration is disappointed that the Committee bill does not direct additional funding to the Congestion Mitigation and Air Quality Improvement program. These livability programs are important components of an Administration effort to provide communities with the tools and resources they need to combat congestion and sprawl.

Job Access and Reverse Commute

The Administration is disappointed that the Committee has provided only \$75 million -- half of the amount authorized and requested -- for the Job Access and Reverse Commute program. This program is a critical component of the Administration's welfare-to-work effort and is significantly over-subscribed at present. Demand is expected to increase as more communities around the country begin to see how effective the program can be in helping individuals make a successful transition from welfare to work.

Coast Guard

The Administration is concerned about the Committee's earmarks to continue operations of the Long Island, New York, and Muskegon, Michigan, air facilities and to establish an additional air facility at Waukegan, Illinois. The Coast Guard has concluded, based on careful review, that none of these facilities are necessary to meet its search and rescue coverage standards. By forcing the Coast Guard to spend nearly \$9 million on these facilities, the House is effectively reducing funding for higher priority Coast Guard activities, such as improving boat station readiness nationwide.

Report Language Issue

The Administration is concerned with report language that would not fund the controller-in-charge differential, which was part of the carefully crafted air traffic controller agreement reached last year.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Oscar Gonzalez (CN=Oscar Gonzalez/OU=OMB/O=EOP [UNKNOWN])

CREATION DATE/TIME:22-JUN-1999 13:09:14.00

SUBJECT: LRM OGG28 - - LABOR Report on HR1381 Rewarding Performance in Compensation

TO: James J. Jukes (CN=James J. Jukes/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: Adrienne C. Erbach (CN=Adrienne C. Erbach/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: Stuart Shapiro (CN=Stuart Shapiro/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: PARK_D@A1@CD@VAXGTWY@VAXGTWY (PARK_D@A1@CD@VAXGTWY@VAXGTWY [UNKNOWN]) (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: Janet R. Forsgren (CN=Janet R. Forsgren/OU=OMB/O=EOP@EOP [OMB])

READ:UNKNOWN

TO: Brian V. Kennedy (CN=Brian V. Kennedy/OU=OPD/O=EOP@EOP [OPD])

READ:UNKNOWN

TO: Robert L. Nabors (CN=Robert L. Nabors/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: 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: 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

TEXT:

Disregard previous reminder

This is a reminder that your comments on the Labor testimony on LRM OGG28 - - LRM OGG28 - - LABOR Report on HR1381 Rewarding Performance in Compensation Act were due at one today. If you've already responded, please disregard this message. If you have not, please provide any comments to me ASAP. Due to the fact that this letter carries a veto threat, more steps are required in the clearance process, and I must therefore move forward as quickly as possible. If I don't hear from you within the hour, I'll have to assume you have no objections to the testimony in its current form.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: MaryEllen C. McGuire (CN=MaryEllen C. McGuire/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:22-JUN-1999 09:20:07.00

SUBJECT: AmeriCorps Meeting

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

TO: JGompert@cns.gov (JGompert@cns.gov @ inet [UNKNOWN])
READ:UNKNOWN

TO: Thurgood Marshall Jr (CN=Thurgood Marshall Jr/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

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

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

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

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

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

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

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

CC: Twest@cns.gov (Twest@cns.gov @ inet [UNKNOWN])
READ:UNKNOWN

CC: Aprill N. Springfield (CN=Aprill N. Springfield/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

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

CC: Carolyn T. Wu (CN=Carolyn T. Wu/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TEXT:

We will be holding an AmeriCorps meeting next Monday, June 28th at 4pm in
OEOB Room 100.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:22-JUN-1999 16:27:41.00

SUBJECT: FOR YOUR CLEARANCE -- Draft DoL Letter on H.R. 1381 --

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

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

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

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

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

CC: Lisa Zweig (CN=Lisa Zweig/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

CC: Courtney O. Gregoire (CN=Courtney O. Gregoire/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

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

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

TEXT:

Attached below is a letter from Labor Secretary Herman on HR 1381 "Rewarding Performance in Compensation Act" to be presented to the House Committee on Education and Workforce prior to a markup of the bill on Wednesday, June 23rd. The letter is nearly identical to a previous Labor letter dated May 19th (Please let me know if you would like a faxed copy of the May 19 letter). Please note that position in the draft letter contains a secretarial veto recommendation (as did the May 19th letter). Due to the short timeframe, your immediate attention is greatly appreciated. Please provide your sign-off or comments no later than 5:00PM TODAY. Thank you!

The Honorable William F. Goodling
Chairman
Committee on Education and the Workforce
U.S. House of Representatives
Washington, D.C. 20515

Dear Chairman Goodling:

I am writing to provide you with the views of the Department of Labor on H.R. 1381, the "Rewarding Performance in Compensation Act." This bill would amend the Fair Labor Standards Act (FLSA) to exclude from the definition of "regular rate" payments made to reward employees for meeting or exceeding productivity, quality, efficiency, or sales goals as specified in a gainsharing, incentive bonus, commission, or performance contingent bonus plan. The regular rate is the basis for calculating overtime premium (time-and-a-half pay). As I previously advised Subcommittee Chairman Ballenger in my letter of May 19, 1999, the effect of this amendment would be to diminish employees' entitlements to overtime premium pay under the FLSA. Accordingly, if H.R. 1381 were presented to the President, I would recommend that he veto it.

This bill would substantially reverse the FLSA's long-standing overtime policy and drastically weaken existing protections for workers to receive true time-and-a-half overtime premium pay. Moreover, H.R. 1381 does nothing to guarantee that workers would ever share in their employers' gains from their having to work excessive overtime hours.

The bill would allow an employer to pay artificially low hourly wages and structure a compensation scheme with "excludable" bonus pay that is based upon production or efficiency, enabling an employer to effectively transfer much of its risk to the workers. The bill would not guarantee workers the right to receive any incentive compensation, but it would guarantee employers the right to exclude any such pay from overtime. Workers' only rights would be overtime at time-and-a-half of an artificially reduced hourly wage, not their true regular rate. This bill would encourage employers to have their employees work for longer hours at lower earnings, the opposite of the original intent of the FLSA's overtime standards--to limit the detrimental impact that long work hours can have on the health, efficiency and general well-being of workers.

This bill would undermine workers' rights and the 40-hour workweek. These requirements, which have been in place for over 60 years, provide vital worker protections that discourage employers from having employees work excessively long hours and ensure fair compensation to employees for the burdens of working extended hours for their employer. The Department of Labor strongly opposes H.R. 1381 because it is contrary to the best interests of the Nation's workers who would be affected by it.

The Office of Management and Budget has advised that there is no objection to the presentation of this report and that enactment of H.R. 1381 would not be in accord with the President's program.

Sincerely,

Alexis M. Herman

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:22-JUN-1999 10:57:26.00

SUBJECT: Weekly Education Strategy Meeting

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

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

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

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

TO: Lisa M. Towne (CN=Lisa M. Towne/OU=OSTP/O=EOP@EOP [OSTP])
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

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

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

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

TO: Peter Rundlet (CN=Peter Rundlet/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

CC: MaryEllen C. McGuire (CN=MaryEllen C. McGuire/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

CC: Jason H. Schechter (CN=Jason H. Schechter/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

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

CC: Joseph D. Ratner (CN=Joseph D. Ratner/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: Mindy E. Myers (CN=Mindy E. Myers/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

CC: Courtney O. Gregoire (CN=Courtney O. Gregoire/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TEXT:

We will be having the weekly Education Strategy Meeting on Thursday, June 24, at 5:15 p.m. in Bruce Reed' s office.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:22-JUN-1999 08:56:11.00

SUBJECT: Daily Report

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

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

TO: Janet L. Yellen (CN=Janet L. Yellen/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

TO: Glyn T. Davies (CN=Glyn T. Davies/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN

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

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

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

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

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

READ:UNKNOWN

TO: Stephanie S. Streett (CN=Stephanie S. Streett/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: Charles F. Ruff (CN=Charles F. Ruff/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

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

TO: Thurgood Marshall Jr (CN=Thurgood Marshall Jr/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

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

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

TO: George T. Frampton (CN=George T. Frampton/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN

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

TO: KERRICK_D@a1 (KERRICK_D@a1 @ CD @ VAXGTWY [UNKNOWN]) (NSC)
READ:UNKNOWN

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

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

CC: Ann C. Hertelendy (CN=Ann C. Hertelendy/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

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

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

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

CC: Carolyn T. Wu (CN=Carolyn T. Wu/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

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

CC: Nina L. Hachigian (CN=Nina L. Hachigian/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN

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

READ:UNKNOWN

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

CC: Justin L. Coleman (CN=Justin L. Coleman/OU=WHO/O=EOP@EOP [UNKNOWN])
READ:UNKNOWN

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

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

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

CC: Rebecca L. Walldorff (CN=Rebecca L. Walldorff/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

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

CC: Kris M Balderston (CN=Kris M Balderston/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

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

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

TEXT:

We'll be doing a daily report again today. Please send report items to me, as usual, by 3:00 p.m. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Robert J. Pellicci (CN=Robert J. Pellicci/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:25-JUN-1999 09:02:29.00

SUBJECT: LRM RJP108 - - Executive Office of the President Statement of Administrati

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

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

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

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

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

TO: JENNINGS_C@A1@CD@LNGTWY (JENNINGS_C@A1@CD@LNGTWY [UNKNOWN]) (WHO)
READ:UNKNOWN

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

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

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

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

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

TO: KAGAN_E@A1@CD@LNGTWY (KAGAN_E@A1@CD@LNGTWY [UNKNOWN])
READ:UNKNOWN

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

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

READ:UNKNOWN

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

TEXT:

NOTE: DRAFT SAP CONTAINS SENIOR ADVISERS VETO THREAT - HOUSE ACTION
EXPECTED NEXT WEEK. COMMENTS ARE DUE AT 2:00 P.M. TODAY. DRAFT SAP
FOLLOWS--

----- Forwarded by Robert J. Pellicci/OMB/EOP on 06/25/99
08:58 AM -----

LRM ID: RJP108
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, June 25, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution
below

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

OMB CONTACT: Robert J. Pellicci
PHONE: (202)395-4871 FAX: (202)395-6148

SUBJECT: Executive Office of the President Statement of
Administration Policy on HR1218 Child Custody Protection Act

DEADLINE: 2:00 p.m. Friday, June 25, 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: House floor action is expected next week.

DISTRIBUTION LIST

AGENCIES:
52-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7760
61-JUSTICE - Jon P. Jennings - (202) 514-2141

EOP:
Daniel N. Mendelson
KAGAN_E
JENNINGS_C
Devorah R. Adler
Sylvia M. Mathews
Adrienne C. Erbach
Jennifer M. Luray
Sarah Wilson
Nicole R. Rabner
Barry T. Clendenin
Thomas Reilly
Mark E. Miller
David J. Haun

John E. Thompson
Broderick Johnson
Janet R. Forsgren
James J. Jukes
Sandra Yamin
Lisa Zweig

LRM ID: RJP108 SUBJECT: Executive Office of the President
Statement of Administration Policy on HR1218 Child Custody Protection Act

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: Robert J. Pellicci Phone: 395-4871 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.D15]ARMS27394838B.136 to ASCII,
The following is a HEX DUMP:

FF5750431B050000010A0201000000020500000068200000000200000B6B982D7074F99FB4DB781
0A008C6D5378CC3B7E06FC5B1E44197B7E14E72AC7932C728C06DDE195D9AA434AC6ECA0861B52
946C12240836DD243C9CC6CD377B2A8D8E826854725EF552BC0618918D8469EF72CE4F77DD15F3
5E0DB6108395D3DF31AC4356A7AA689A3B7EE101B43E2975DEF24EF09C016D6DBA42C01618ECAD
3758DF53D867860008C672CEB087836C976EEDE587394D60C86674EC61D641DBB79133E507A747
3041BE3B0987DCCB301D6C21D524524E316FCD6186776A2C6C9F099D53F089CD2F9902E90F0D3E
A961004A69FCFD734104025C6ECABF0AE33646137303E67AA16C159ED2100ABD92DCCB45445686
B74CDC0DB0CDB1CC59B35F1DE68AA608A46E2C992520F35096B877FC6866B5B380F3CAD7257F90
0B8B29DC62E965D1451CBEC54D42844D9AD205D24DD29E7AA4880A46D0AC4F0EA39C3FCA06784A

June 25, 1999
(House)

H.R. 1218 - Child Custody Protection Act
(Rep. Ros-Lehtinen (R) FL and 129 cosponsors)

The Administration strongly opposes enactment of H.R. 1218 in its current form. If a bill is presented to the President that fails to address the concerns that are described below, the President's senior advisers would recommend that he veto it.

During Congressional consideration of almost identical bills during the 105th Congress, the Administration, in Statements of Administration Policy and in letters from former White House Chief-of-Staff Erskine Bowles to the House and Senate Committees on the Judiciary, stated that it would support properly crafted legislation that would make it illegal to transport minors across state lines for the purpose of avoiding parental involvement requirements. Unfortunately, H.R. 1218, as reported by the House Committee on the Judiciary, also fails to address a number of the critical concerns raised by the Administration. Specifically, the bill must be amended to:

- Exclude close family members from criminal and civil liability. Under the legislation, grandmothers, aunts, and minor and adult siblings could face criminal prosecution for coming to the aid of a relative in distress.
- Ensure that persons who only provide information, counseling, referral, or medical services to the minor cannot be subject to liability.
- Address constitutional and other legal infirmities that the Department of Justice has identified in particular provisions of the legislation. These concerns were transmitted to the House Committee on the Judiciary on June 24, 1998, and again on June 15, 1999.

The Administration continues to be concerned that H.R. 1218 raises important federalism issues, including the rights of States to regulate matters within their own boundaries. The Administration believes, however, that legislation that addresses the concerns noted above, and that is carefully targeted at punishing non-relatives who transport minors across State lines for the purpose of avoiding parental involvement requirements, would mitigate the federalism and the Administration's other concerns.

Pay-As-You-Go Scoring

H.R. 1218 could affect both direct spending and receipts; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. OMB's preliminary scoring estimate of this bill is that it would have a net effect of less than \$500,000.

* * * * *

(Do Not Distribute Outside Executive Office of the President)

This Statement of Administration Policy was developed by the Legislative Reference Division (Pellicci) in consultation with HD (), TCJS (), EIML (), BASD (), and the White House Offices of Policy Development (), Legislative Affairs (), and the General Counsel (). The Department of Justice () and Health and Human Services ()

OMB/LA Clearance: _____

The proposed position is consistent with that taken on June 15, 1999, in a letter from the Justice Department to the House Committee on the Judiciary. It also is consistent with SAPs and letters from former Chief-of-Staff Bowles to the House and Senate Committees on the Judiciary on almost identical bills in the 105th Congress.

Last year's bill (H.R. 3682) passed the House by a vote of 276-150, but the Senate was unable to invoke cloture on its version of the measure (S. 1645), and no further action was taken.

H.R. 1218 was ordered reported by the House Committee on the Judiciary by a vote of 16-13 along party lines on June 23, 1999.

Summary of H.R. 1218

As ordered reported, H.R. 1218 would make it illegal for anyone -- other than the girl's parent or guardian -- to knowingly transport a minor across a State line to obtain an abortion in cases in which the minor has not satisfied her home State's laws regarding "parental involvement" (i.e., laws requiring parental consent or notification). H.R. 1218 would subject individuals violating the bill's provisions to civil and criminal penalties, including the possibility of imprisonment for up to one year. The bill would allow an out-of-State abortion without parental notification if the abortion was necessary to save the minor's life.

H.R. 1218 would make it an affirmative defense to prosecution under the bill that the defendant reasonably believed that before the individual obtained the abortion, parental consent or notification or judicial authorization that would have been required had the abortion been performed in the State where the individual resides, took place. In addition, under the bill any parent or guardian who is effected from the violation of a parental notification law would be allowed to seek civil action for damages.

Currently, 22 States require parental consent for a minor to terminate her pregnancy while 17 States have opted for the lesser requirement of parental notification. Eleven States have no parental involvement requirements.

Pay-As-You-Go Scoring

According to BASD (), H.R. 1218 could affect direct spending and receipts; therefore, the bill is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990.

Individuals prosecuted and convicted under H.R. 1218 could be subject to criminal fines. Collections of such fines are governmental receipts, which are deposited in the Crime Victims Fund and spent in the following year. OMB estimates that the scoring estimate of this bill is that it would have a net effect of less than \$500,000.

LEGISLATIVE REFERENCE DIVISION DRAFT
06/25/99 - 9:00 a.m.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:29-JUN-1999 18:51:43.00

SUBJECT: URGENT -- FINAL CLEARANCE -- Draft Senate Floor SAP -- S 1234 Foreign Ops

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

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

TO: George T. Frampton (CN=George T. Frampton/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN

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

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

TO: Wesley P. Warren (CN=Wesley P. Warren/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN

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

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

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

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

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

TO: Miles M. Lackey (CN=Miles M. Lackey/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN

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

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

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

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

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

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

READ:UNKNOWN

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

CC: Wendy E. Gray (CN=Wendy E. Gray/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN

CC: Courtney O. Gregoire (CN=Courtney O. Gregoire/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

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

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

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

CC: Dawn L. Smalls (CN=Dawn L. Smalls/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

CC: Linda Ricci (CN=Linda Ricci/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

CC: Rebecca L. Walldorff (CN=Rebecca L. Walldorff/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

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

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

CC: Lisa Zweig (CN=Lisa Zweig/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

CC: Scott R. Hynes (CN=Scott R. Hynes/O=OVP@OVP [UNKNOWN])
READ:UNKNOWN

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

CC: Mara E. Rudman (CN=Mara E. Rudman/OU=NSC/O=EOP@EOP [UNKNOWN])
READ:UNKNOWN

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

CC: Carolyn T. Wu (CN=Carolyn T. Wu/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

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

READ:UNKNOWN

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

CC: Mark J. Tavlarides (CN=Mark J. Tavlarides/OU=NSC/O=EOP@EOP [NSC])
READ:UNKNOWN

CC: Victoria A. Wachino (CN=Victoria A. Wachino/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

CC: Judy Jablow (CN=Judy Jablow/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN

CC: Elizabeth Gore (CN=Elizabeth Gore/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

TEXT:

Attached for your sign-off is the final draft Senate floor SAP for S. 1234 -- Foreign Ops, Export Financing, and Related Programs Appropriations Bill, FY00. This bill has just been scheduled for Senate floor consideration on Wed., June 30 at 9:30AM. Our aim is to transmit this SAP tonight. Due to the tight time constraints, we are seeking concurrent clearance. Appreciate your sign-off no later than 7:40PM today. Thank you!

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D35]ARMS226743780.136 to ASCII,
The following is a HEX DUMP:

FF5750430C0D0000010A020100000002050000004E7F000000020000415B983E647ACC3BF01927
4C7B29FEA44094A40E0665CCA259B1799197F8A80D0D6D007DD5E40290392D217EE7E9AE9A7A4A
960838FC0F2D79C666D16B4A2EDD18ED213F68B9A08DD8A239F0950079BC82CEA33F4191D87D9D
83B502945183ACB41BE65A60F8C20FAE3CBA1E2C10B8FB2C369EE761FAB928F53922BDB66A75A5
DD7F55C51F43B715CFC266F7C2E7FE9E7399B68D2ADE79FB2F95558B4196739862A263CDEE02E1
B0622A0DCA3FB0F20FFB804CC1BC4C02420D40DAC6D63EF8CE4095BC1A18D28BD7280A298A68D1
809DF24D62AB7D383161D989A6C42F23762FE84D82297DD9C37507A2403A373C8B1B6326D3FB90
2E39C3DAA5B5E7F997C303E615848412D173904136F7C9B25B064B5F638928BA3D464AE33E8288
ACD2EB28D1F927DD606AED43730B271B275F93395B72C949E80E12659FB582711F770F6E455D65

June __, 1999
(Senate Floor)

**S. 1234 -- FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED
PROGRAMS APPROPRIATION BILL, FY 2000**

Sponsors: (Stevens (S), Alaska; McConnell (S), Kentucky)

This Statement of Administration Policy provides the Administration's views on the Foreign Operations, Export Financing, and Related Programs Appropriations Bill, FY 2000, as reported by the Senate Appropriations Committee. As the Senate considers the Committee-reported bill, your consideration of the Administration's views would be appreciated.

The Administration appreciates the Committee's efforts to accommodate some of the Administration's priorities within its 302(b) allocation. However, the inadequacy of the 302(b) allocation has forced the Committee to make choices that are simply unacceptable.

The allocation of discretionary resources available to the Senate under the Congressional Budget Resolution is simply inadequate to make the necessary investments that our citizens need and expect. The President's FY 2000 Budget proposes levels of discretionary spending that meet such needs while conforming to the Bipartisan Budget Agreement by making savings proposals in mandatory and other programs available to help finance this spending. Congress has approved, and the President has signed into law, nearly \$29 billion of such offsets in appropriations legislation since 1995. The Administration urges the Congress to consider such proposals.

This legislation is a critical element of America's national security budget. As a result of the inadequate 302(b) allocation for Foreign Operations, the Committee bill is more than \$1.9 billion, or 13 percent, below the program level requested by the President, which would result in the severe under-funding of a number of crucial programs. A bill funded at this level would be grossly inadequate to maintain America's leadership around the world. It inevitably would require severe reductions from previously enacted levels for programs managed by the Departments of State and Treasury, the Agency for International Development, and other agencies.

The bill provides neither the \$500 million requested by the President to support the Wye River Agreement, nor any of the \$800 million requested as an FY 1999 supplemental appropriation. It also would significantly increase our arrears to various multilateral

development banks, after three years of bipartisan progress in reducing these arrears, thus undermining our leadership in these institutions. The Committee's decision not to fund the Expanded Threat Reduction Initiative undermines our ability to reduce the proliferation threat and continue the elimination of weapons of mass destruction (WMD). The cut in funding for debt reduction programs would preclude our leadership in reducing debt of the poorest countries. Given current tensions on the Korean peninsula and the 37,000 U.S. troops stationed there, the reduction for the Korean Peninsula Energy Development Organization (KEDO) is ill-advised.

Moreover, the bill contains substantial earmarks and objectionable restrictions on language which, when combined with the reduced funding level, would seriously limit the President's flexibility to conduct an effective foreign policy. Various provisions concerning Kosovo, in the context of difficult and fluid circumstances on the ground, are particularly ill-advised. For example, the earmark to train and equip a security force in Kosovo would reduce the Administration's flexibility and, given current intra-Kosovar rivalries, could threaten the lives of American military and civilian peacekeepers. The designation of Serbia as a terrorist state would have the unintended consequence of cutting off aid to Front Line and other states, even if they provide only humanitarian assistance to the Former Republic of Yugoslavia. The total prohibition on assistance to Russia pending certification that Russia is not assisting Iran's development of nuclear and ballistic missile technologies would complicate our efforts to achieve those very goals and would undermine other vital American interests in ensuring constructive relations with a more stable Russia.

If the Congress were to enact a bill that does not resolve the significant funding and language problems in the current Committee bill, as discussed in this Statement of Administration Position and its attachment, the President's senior advisers would have no choice but to recommend that he veto the bill.

Detailed comments on the Senate Committee-reported bill are provided in the attachment.

Attachment

ADDITIONAL CONCERNS
S. 1234 FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED
PROGRAMS APPROPRIATIONS BILL, FY 2000

(AS REPORTED BY THE SENATE APPROPRIATIONS COMMITTEE)

For the following accounts, the Administration urges the Senate to restore funding to the levels in the President's FY 2000 request.

Multilateral Development Banks. The reduction of \$444 million, or 32 percent, by the Committee to the President's request for the Multilateral Development Banks would unravel the progress made in the FY 1998 and 1999 appropriations towards meeting the past-due obligations of the United States to these institutions and in meeting our continued obligations to them at the much-reduced level that has been negotiated over recent years. In particular, the lack of any funding whatsoever for the African Development Fund and the drastic cuts in the requests for the Global Environment Facility and the Asian Development Fund would call into question the willingness of other donors to continue their support for these critical institutions at the very point when their support for environmental and economic development is most needed.

Southeast Europe and Kosovo. The Administration appreciates the increase in Support for Eastern Europe Democracy (SEED) funding in recognition of U.S. security interests in restoring and sustaining stability in Southeast Europe. However, we strongly oppose the earmarks of the SEED account, earmarks that, if enacted, would eviscerate the President's flexibility in meeting any unanticipated economic stabilization needs in this war-ravaged region. In addition, the funding limitations on Bosnia would only increase the risk that the peace we have worked to establish in that country could begin to unravel just as the Kosovo conflict shows signs of abatement.

With regard to Kosovo, the Administration is strongly opposed to language which, coupled with the language contained in the Committee report, could be interpreted as aimed at training and equipping the Kosovo Liberation Army (KLA), a policy prescription diametrically at odds with the recent agreement by the KLA to disarm under NATO supervision. If adopted, we believe this provision could threaten the lives of American military and civilian peacekeepers and humanitarian care providers, particularly in view of current intra-Kosovar rivalries.

The Administration also strongly opposes the designation of the Government of Serbia as

a state sponsor of international terrorism and gross human rights violator. While egregious, the actions taken by officials of that Government against the Kosovar people do not constitute "international terrorism" as that term is used in U.S. terrorism legislation. The provision contains neither a waiver, nor an authority to "de-designate" and would impinge on the authority of the Secretary of State. Moreover, the bill's designation of Serbia as a state sponsor of international terrorism could have the unintended consequence of imposing sanctions on Front Line States and other countries that, whether because humanitarian or other concerns, provide assistance of any kind to the Government of the Federal Republic of Yugoslavia. This could further destabilize an already war-torn region and make more difficult the task of assuring stability in the broader region.

Sec. 567 -- Restrictions on Assistance to Countries Providing Sanctuary to Indicted War Criminals. While the Administration appreciates the Committee's desire to speed the apprehension and trial of war criminals, the Administration opposes any provision that would increase restrictions in current law on former Yugoslav entities harboring war criminals as too restrictive, unnecessary, too burdensome in implementation, and jeopardizing successful Dayton implementation.

Assistance to the Newly Independent States (NIS). The Committee bill would reduce the President's request for assistance to the NIS by 24 percent, and over half of the \$780 million that is provided would be earmarked for three countries in the region. This would leave little in funding for reforming countries such as Moldova, or to fund the vitally important Expanded Threat Reduction Initiative. The reduction in the Committee bill would also reduce funding for programs that the Senate has supported aimed at fostering grass root support for reform in the region, including micro-lending and exchange programs. Such cuts would undermine our efforts to help the countries of the region to become integrated into the global economy and play constructive roles in global affairs. They equally would make it more difficult to press for further market reforms and to support democratic forces across the region.

The Administration strongly opposes conditioning all assistance to Russia on a certification that Russia is not assisting the Government of Iran's development of nuclear and ballistic missile technologies. This would complicate our efforts to achieve those very goals and would undermine other vital American interests in ensuring constructive relations with a more stable Russia.

Expanded Threat Reduction Initiative (ETRI). The Committee provides no support for proposed increases for this critical national security initiative. We have made dramatic strides in securing nuclear materials and important progress in strengthening export controls in these countries. The primary objective of the Expanded Threat Reduction Initiative is to further reduce international security threats by expanding and accelerating U.S. and international assistance activities in Russia and the other NIS to address high

priority security and proliferation concerns. This initiative has received wide support in Western Europe and Japan. The costs of having to defend against weapons of mass destruction (WMD) proliferation are enormous. At a fraction of such costs, the international community can join together to reduce the proliferation threat through ETRI.

Korean Peninsula Energy Development Organization (KEDO). The Administration strongly objects to the bill's provisions concerning KEDO. The cut of \$15 million, or 20 percent, in funding for KEDO could prevent the United States from fulfilling its commitments under the Agreed Framework to provide heavy fuel oil to North Korea and could damage our nonproliferation policy on the Korean Peninsula. Restrictions on funding relating to North Korean missile exports and "nuclear capability" would also jeopardize our ability to meet our commitments on the peninsula. Stopping North Korea's ballistic missile and nuclear programs, including its exports, are a priority goal of the Administration and a key focus of Secretary Perry's review of U.S. policy, but any failure by the United States to uphold the Agreed Framework risks giving North Korea an excuse to develop both ballistic missiles and nuclear weapons. In addition, the requirement for a 45-day delay in Presidential certification would seriously undermine our ability to maintain the funding schedule for KEDO. Finally, we strongly oppose the prohibition on use of Economic Support Fund (ESF) funds for KEDO, which would unduly restrict the President's flexibility to deal with unexpected foreign policy developments.

Wye River and Middle Eastern Assistance. The Committee bill fails to provide any of the \$500 million requested by the President for FY 2000 to support the Wye River Agreement, nor does it provide any of the \$800 million requested as an FY 1999 supplemental appropriation, with budget authority offsets, for this purpose. Given the renewed dedication of all sides to the peace process, this complete lack of funding would undercut the U.S. Government's efforts to support this historic opportunity to strengthen the peace process and move toward a permanent agreement.

The Administration continues to welcome the efforts of the Committee to ramp down traditional levels of assistance to countries in the Middle East. However, the Administration is disappointed both at the Committee's failure to accept our specific proposal for a gradual reduction in aid to Israel and Egypt and with the Committee's decision not to incorporate the provision of an Interest Bearing Account for a portion of Egypt's Foreign Military Financing (FMF). The Administration will work with the Congress on the scoring implication of this proposal.

Economic Support Fund (ESF). The reduction of almost \$200 million to the President's request for non-Wye River ESF would effectively remove any discretion that the President has to respond to a host of threats around the world. These cuts would force the reduction or elimination of programs intended to increase political stability and democratization in Africa; support democracy efforts in Guatemala, Peru, and Ecuador; sustain implementation of the Belfast Good Friday Accord; bolster democratic reform and

economic recovery in Asia; and, support Arab/Israeli cooperation programs in the Middle East.

Debt Reduction. The cut of almost two-thirds to the President's request for debt reduction programs, from \$120 million to \$43 million, would cripple our ability to fund the bipartisan debt for environment program that was enacted by the Congress last year and would damage our ability to contribute to the Trust Fund for the Highly Indebted Poor Countries, which is an essential component of current debt reduction programs as well as of the historic debt initiative agreed to in Cologne. This initiative has received broad support from governments, multilateral institutions, religious groups, and individuals worldwide.

Peacekeeping Operations. The Committee's \$50 million, or 38 percent, cut to the President's request for voluntary peacekeeping operations would decrease funds available for Organization for Security and Cooperation in Europe (OSCE) missions in Bosnia and Croatia, significantly reduce assistance for the African Crisis Response Initiative, and eliminate funding for Haiti. In doing so, such a substantial reduction would also raise international concern that the United States may not support its fair share of the international police force that will help to implement the Kosovo peace settlement, for which new resources will be needed.

International Narcotics and Crime. The cut of \$80 million, or 27 percent, to the President's request for International Narcotics and Crime programs would significantly impact programs designed to implement the National Drug Control Strategy, including alternative development efforts in Columbia, Peru, and Bolivia, and would reduce our support for the U.N. Drug Control Program and other important multilateral anti-narcotics efforts. A cut of this magnitude would also significantly undercut the Administration's programs in support of the President's new International Crime Control Strategy, which was released in May 1998.

Nonproliferation, Anti-terrorism, Demining, and Related Programs. The Committee has cut these programs by \$56 million, or 24 percent, from the President's request. In addition to the reduction for KEDO discussed separately, the request for export control assistance would be cut by two-thirds (from \$15 million to \$5 million). This would greatly slow our efforts to assist the NIS and other regions to develop tighter controls to prevent nuclear smuggling.

Peace Corps. The Administration is very concerned by the Committee's \$50 million, or 19 percent, reduction to the President's request for the Peace Corps. This reduction, which would cut funding by over \$20 million from the FY 1999 enacted level, would require the Peace Corps to reduce the current level of volunteers by over 1,000. It would also prevent implementation of the bipartisan initiative to field 10,000 volunteers in the new century. This Administration goal was enacted into law in 1985 as "the policy of the United States and the purpose of the Peace Corps," and was confirmed in this year's Peace Corps reauthorization (which was approved by the Senate by unanimous consent).

U.S. Agency for International Development (USAID). The Administration appreciates the Committee's support for a number of the Administration's development initiatives. In particular, the Committee's support for the "School Works" program will provide important resources for the fight against child labor.

However, the Committee bill and accompanying Senate Committee Report contain an unprecedented number of earmarks, directives and recommendations for funding, with over 30 earmarks in bill language and over 60 directives or recommendations in report language. When combined with the degree of specificity for funding -- in some cases down to the project type and appointed grant recipient -- these produce an unmatched and unwarranted level of micro-management.

The Administration appreciates the increase over FY 1999 in funding for USAID's operating expenses. However, the reduction of almost \$13 million from the request, coupled with the higher-than-anticipated costs of improving security at overseas posts, would force USAID to reduce its permanent staff by even more positions than already planned. P.L. 105-277, the FY 1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act mandated the transfer of the security function to USAID from its Inspector General.

Although sufficient disaster assistance resources have been provided for Kosovo through supplemental appropriations, the 20-percent reduction to the Administration's FY 2000 disaster assistance request would limit USAID's ability to meet humanitarian needs in other parts of the world, particularly in Africa. It would also threaten USAID's ability to provide assistance to the victims of nuclear, chemical, or biological disasters abroad, and would limit the ability of Office of Transition Initiatives to provide needed assistance to countries that are making the transition from conflict situations.

The Administration is disappointed that the Committee has not approved transfer authority for the Development Credit Authority. USAID's recent implementation of a credit management out-sourcing contract and other credit management improvements justifies continued funding of this innovative new credit mechanism.

The Administration is concerned that its request for reinstatement of the Development Fund for Africa (DFA) is not included in the bill. Funding provided under the DFA affords needed stability to respond to development opportunities in Africa, as well as to complex crises on a fragile continent, and maintains our strong commitment to an Africa in transition.

Finally, we are concerned that the Committee has not approved the requested authority for USAID to create a Working Capital Fund similar to those already available to the Department of State and other agencies. We hope to work with the Senate to give USAID the means to capture the costs of becoming a service provider to other agencies under the ICASS system and, therefore, encourage competition among agencies to

provide the lowest-cost and most efficient services.

Migration and Refugee Assistance (MRA). The Committee's \$50 million reduction to the President's request for MRA would require a reduction in annual refugee admissions to the United States of up to 10,000. A reduction of this magnitude also would eliminate resources for an initiative to address programming shortfalls in Africa and South Asia necessary to provide life-saving, minimum international standards of assistance in key sectors (including nutrition, shelter, medicine, sanitation, and protection). Such reductions in assistance to refugees in Africa and elsewhere at the very time huge resources are going into Kosovo would create serious political and equity issues.

Export and Investment Financing. The Administration appreciates the Committee's effort to support the President's export initiative by increasing funding for the Export-Import Bank, especially the administrative budget, which is essential to the Bank's efforts to increase small business exports. We urge the Senate, as this bill progresses, to increase the Bank's credit subsidy budget to the President's requested level to enable U.S. exporters to continue to export to the developing world during the ongoing economic downturn.

The Administration is very concerned about the reduction in funding for the Trade and Development Agency (TDA) below both the President's request and the FY 1999 enacted level. The request for TDA is an integral part of the President's export initiative, and the Committee bill would significantly reduce TDA's ability to fund feasibility studies that help U.S. exporters take advantage of potential market opportunities.

Likewise, the Administration is very concerned about the reduction in administrative expenses for the Overseas Private Investment Corporation. This \$3.5 million reduction below the request, or \$1 million below the FY 1999 enacted level, could threaten the agency's capability to operate in a financially responsible and prudent manner, and runs counter to efforts to mobilize U.S. private sector support for key foreign policy priorities.

The Administration believes the Senate provision mandating OPIC to establish an investment fund is inappropriate because it would eliminate OPIC's discretion to determine whether such a fund is financially viable.

African Development and Inter-American Foundations. The Administration strongly objects to the suspension of funding for the Inter-America Foundation. It is inappropriate to suspend funding for an entire agency as the result of the alleged improprieties of individual staff members.

The Administration appreciates the Committee's efforts to support the African Development Foundation (ADF). However, the Committee's funding level of \$12.5 million still falls short of the amount necessary for the ADF to continue its important

work of supporting Africans at the grassroots level, including micro-credit and trade and investment programs. The Committee has previously acknowledged the ADF's improvements in private sector outreach, as well as the Foundation's streamlining of operations.

International Organizations & Programs. The Administration opposes the \$22 million cut in the request for IO&P's. Further, while we strongly support the programs earmarked by the Committee, the Administration must retain its flexibility in funding these programs, consistent with an overall assessment of the national interest.

Treasury International Affairs Technical Assistance. The Administration is concerned that the Committee provided only \$1.5 million of the \$8.5 million request for the Department of the Treasury's International Affairs Technical Assistance program. If the International Financial Institution and International Monetary Fund Advisory Committees requested in this account are fully funded at \$1.5 million, no funding will be available for the technical assistance that the Department plans to provide to Ministries of Finance and Central Banks that are attempting to implement fiscal and financial reforms in Africa, Asia and Latin America. Similarly, if technical assistance is funded at last year's level of \$1.5 million, no funding would be available to implement the mandated Advisory Committees.

Silk Road Strategy Act. The Administration strongly supports passage of the Silk Road Strategy Act, which may be added to the bill as an amendment. We appreciate the Committee's continued efforts to reduce restrictions in section 907 of the FREEDOM Support Act. This Administration, like its predecessors, has opposed section 907 and called for its repeal. Section 907 damages U.S. national interests by undermining the United States' neutrality in seeking to promote a settlement in the Nagorno-Karabakh dispute; by restricting our ability to provide assistance that would encourage economic and broad legal reforms in Azerbaijan; and, by limiting our efforts to advance an east-west energy transport corridor. While the Silk Road Strategy Act does not provide for the full repeal of Section 907 that the Administration has sought, it would allow the President to waive these restrictions if he determined that they were not in the national interest of the United States.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Michael Waldman to George Stephanopoulos et al re Electoral Map (1 page)	11/06/2000	Personal Misfile

COLLECTION:

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

FOLDER TITLE:

[06/18/1999-01/10/2001]

2009-1006-F
kc171

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.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. email	Bruce Reed to Elena Kagan re Test (1 page)	01/10/2001	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[06/18/1999-01/10/2001]

2009-1006-F

kc171

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

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

C. Closed in accordance with restrictions contained in donor's deed of gift.

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

RR. Document will be reviewed upon request.

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

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