

**NLWJC - KAGAN**

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**ARMS - BOX 075 - FOLDER -002**

**[04/07/1998 - 04/08/1998]**

# Withdrawal/Redaction Sheet

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
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001. email	Julie Fernandes to Elena Kagan. Subject: H1B Deputy's meeting [partial] (1 page)	04/07/1998	P6/b(6)
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**COLLECTION:**

Clinton Presidential Records  
 Automated Records Management System (Email)  
 WHO ([Kagan])  
 OA/Box Number: 500000

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**FOLDER TITLE:**

[04/07/1998 - 04/08/1998]

2009-1006-F

ke733

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**RESTRICTION CODES**

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

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

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

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

RR. Document will be reviewed upon request.

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

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 7-APR-1998 09:38:15.00

SUBJECT:

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

READ:UNKNOWN

TEXT:

DPC staff mtg. is waiting for you in 211

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Glen M. Weiner ( CN=Glen M. Weiner/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 7-APR-1998 11:48:07.00

SUBJECT: Kentuckiana Tobacco Warehouse

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

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

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

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

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

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

CC: Thomas D. Janenda ( CN=Thomas D. Janenda/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TEXT:  
FYI...

Referring to the Kentuckiana Tobacco Warehouse (proposed site for the President's event on Thursday), the November 26, 1996 Cincinnati Enquirer reported that "A large banner strung across the cavernous warehouse reads "Keep the FDA Off the Farm," an oft-repeated slogan as President Clinton ponders federal regulations that would classify tobacco as a drug."

Attached is the full article.

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

TEXT:  
Unable to convert ARMS\_EXT:[ATTACH.D87]MAIL43595469R.026 to ASCII,  
The following is a HEX DUMP:

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The Cincinnati Enquirer, November 26, 1996

SECTION: METRO, Pg. B01

LENGTH: 985 words

HEADLINE: Tobacco road paved with gold  
Leaves that survived weather and mold bringing good prices

BYLINE: PATRICK CROWLEY

SOURCE: The Cincinnati Enquirer

DATELINE: CARROLLTON

BODY:

Finally, some good news for Kentucky's tobacco growers.

Burley tobacco markets opened here and across the eight-state burley belt Monday - which includes Kentucky and Ohio - with some of the highest per- pound prices in years.

**Tobacco companies paid as high as \$ 1.92 per pound for the thousands of bundles of burley stacked in tight rows on the cold cement floor at the Kentuckiana Tobacco Warehouse in Carrollton, purposely kept chilly and dark to maintain the moisture in tobacco leaves.**

This comes in a year that saw the state's top cash crop threatened by tough new government regulations, battered by bad weather and attacked by blue mold disease.

"That's a darn good price," said George Gripshover, 37, who grew about 120, 000 pounds of tobacco this year on his family's 50-acre Big Bone Road Farm near Union in Boone County.

Mr. Gripshover was one of dozens of growers from the northern and central parts of the state who gathered at one of Carrollton's three tobacco warehouses to begin selling this year's crop.

"It's been kind of a rough year, with the weather and all," he said. "This price helps make up for some of that, but we'll probably be down a little in how much we bring in this year."

Last year's average price was \$ 1.85 a pound, said Billy Tackett, a U.S. Department of Agriculture grader from Stamping Ground, Ky.

Automated Records Management System  
Hex-Dump Conversion

Growers said the last time they can remember prices going over \$ 1.90 was in the early 1980s.

Mr. Tackett, whose job it is to "grade," or determine the quality of the tobacco, said this year's burley "is a good-looking crop."

"The tan leaves are the best," Mr. Tackett said as he pulled a strip of tobacco from a bundle to get a closer look. "And there's a lot of tan on the (warehouse) floor. It'll be a good year for the farmers."

Melvin Lyons, owner of the Kentuckiana warehouse, said while burley's quality is up this year, production is down.

"We had a wet spring, and then it didn't rain when we needed it in the summer," Mr. Lyons said. "On top of that, we got blue mold, so when it did rain, the mold spread to other plants and killed some."

During Monday's auction at Kentuckiana, about 150,000 pounds of tobacco was purchased by large cigarette makers like R.J. Reynolds and American Brands.

By the time the sales end in January, Mr. Lyons expects to have moved more than 3 million pounds.

Grower Damon Lewis hopes to harvest as much as 140,000 pounds of tobacco from his 70-acre farm outside of Ghent, a small Carroll County farm town that sits along the Ohio River a few miles west of Carrollton.

But his overall crop will be down about 10 percent this year, thanks to the weather and the blue mold.

"Seems like it's always something we have to worry about," said Mr. Lewis, who sold about 16,000 pounds Monday. "We know we have to deal with the weather, but it's things we don't have any control over that is so frustrating, like more government regulations."

Mr. Lewis, who grew up on a farm, said he would like to see his 4-year-old son, Brennon, someday take up farming "but I don't know if tobacco will still be around then.

"None of us do."

**A large banner strung across the cavernous warehouse reads "Keep the FDA Off the Farm," an oft-repeated slogan as President Clinton ponders federal regulations that would classify tobacco as a drug.**

That, growers said, would hurt tobacco sales and possibly lead to its demise.

Depending on tobacco

A full-time farmer who also raises dairy cattle and hay, Mr. Gripshover - the father of children ages 6 and 2 - said tobacco provides the bulk of his annual income.

Talk of regulating tobacco makes him "nervous."

"I'd wish they'd just leave it alone," Mr. Gripshover said. "There are a lot of people who make their living off tobacco. What are we supposed to do if they run us off the farm?"

Dozens of small towns across Kentucky depend on tobacco to keep their economy vibrant, said David Lyons, president of Citizens Bank in New Liberty, a tiny farming community in nearby Owen County.

"The loss of tobacco, or even a major reduction in tobacco output, would devastate so many small towns and communities," said Mr. Lyons, whose bank lends money to many of the farmers selling tobacco at Monday's sale.

It's not just the farmers who would be hurt if tobacco production would be seriously reduced, said another Owen County banker at Monday's sale in Carrollton.

Ben Lykins, chairman and president of the Citizens Bank & Trust Co. in Owenton, said that according to the Kentucky Department of Agriculture, the tobacco dollar turns over six times in communities where it is grown.

Of Kentucky's 120 counties, tobacco is grown in all but one - Pike County in far eastern Kentucky. There are about 90,000 farms in the state, according to the Kentucky Agricultural Statistics Service, and 60,000 of those grow tobacco.

"Farmers will sell about \$ 19 million of tobacco in Owen County this year," Mr. Lykins said.

Seed money

"That money goes right back into the community, at car dealers, at hardware stores, at grocery stores and furniture stores, so you can see what kind of impact tobacco has in a place like Owenton.

"Multiply that across the state, and you can see what tobacco means to Kentucky."

Farmers are expected to sell about 420 million pounds of burley this year. And it's not just small towns that feel tobacco's economic impact.

Jefferson County Judge-executive David Armstrong released a statement Monday saying agribusiness accounts for nearly 10 percent of all jobs in the Louisville area, home of the Brown & Williamson tobacco company.

"And tobacco processing accounts for 27 percent of the area's agribusiness payroll," Mr. Armstrong said. "So the continued success of your tobacco crop is paramount to the economic strength of all Kentucky communities - including urban areas like Jefferson County and Louisville."

GRAPHIC: The Cincinnati Enquirer - Patrick Reddy; Russell Lewis Trapp, 4, of Petersburg, watches the tobacco auction Monday of some burley bales. He came with his grandfather, Russell Lee Loudon, and uncle, Richard Lee Loudon., The Cincinnati Enquirer - Patrick Reddy; John Barnes, 42, of Carrollton, uses a forklift to move tobacco Monday, the opening auction day at Kentuckiana Tobacco Warehouse.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Thomas L. Freedman ( CN=Thomas L. Freedman/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME: 7-APR-1998 12:05:23.00

SUBJECT: draft privacy paper

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

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

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

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

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

TEXT:

Here is Kalil's draft paper. He is adding a third policy option on legislation the Administration could endorse but is waiting on paper from the agencies. He says the meeting is set for 1 pm tomorrow in 180.=====

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

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D15]MAIL426274697.026 to ASCII,  
The following is a HEX DUMP:

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Draft April 6, 1998

MEMORANDUM FOR NEC/DPC DEPUTIES

FROM:

RE: PRIVACY IN THE INFORMATION AGE

**I. What's the problem?**

In recent years, Americans have become increasingly concerned about their privacy. In a recent Louis Harris poll, eight out of ten Americans surveyed agreed that "consumers have lost all control over how personal information about them is circulated and used by companies."

Clearly, new technologies have made it easier to create, manipulate, store, transmit, and link digital personally identifiable information. People may disclose personal information about themselves as they travel, fill a prescription at the drug store, visit a Web site, call a 1-800 number, send an e-mail, use a credit card, or purchase groceries using a discount card. Information about these individual transactions may be bought and sold - and companies are now assembling giant "data warehouses" that contain electronic dossiers on the needs, lifestyles, and spending habits of millions of Americans.

Concerns about the loss of privacy are not just hypothetical:

- Early this year, the Navy began discharge proceedings against a sailor (McVeigh) on the basis of personal information he disclosed on America Online. The Navy investigator was able to get AOL to disclose information that linked Mr. McVeigh's screen name to his real identity.
- The drug store CVS and Giant Food recently admitted that they were disclosing patient prescription records to a direct mail and pharmaceutical company to track customers who don't refill prescriptions.
- Beverly Dennis, a woman in Massillon, Ohio, received a 12-page letter containing an intimately threatening sexual fantasy from a stranger who knew her birthday, the names of her favorite magazines, the fact that she was divorced, and the kind of soap she used in the shower. The letter was written by a convicted rapist serving time in a Texas state prison, who had been entering information for Metromail, a direct marketing firm with detailed databases on more than 90 percent of American households. Dennis' suit disclosed that Metromail had 900 pieces of information on her going back to 1987, including not only her income, marital status, hobbies, ailments, but whether she had

dentures, the brands of antacid tablets she had taken, and how often she had used room deodorizers, sleeping aids, and hemorrhoid remedies.

Privacy concerns often have to be balanced against other competing values - such as prevention of crime, prosecution of criminals, cracking down on "deadbeat dads," free expression, and an investigatory press. For example:

- When information is true and obtained lawfully, the Supreme Court has repeatedly ruled that the state may not restrict its publication without showing a narrowly tailored and compelling governmental interest.
- Although the widespread adoption of strong encryption would increase privacy, the U.S. has maintained export controls against unbreakable encryption because of national security and law enforcement concerns.
- There are significant commercial advantages that flow from the collection of personally identifiable information. As privacy expert Fred Cate put it, "Instant credit, better targeted mass mailings, lower insurance rates, faster service when ordering merchandise by telephone, special recognition for frequent travelers, and countless other benefits come only at the expense of some degree of privacy."

## **II. What is the current U.S. legal regime?**

The U.S. has no comprehensive privacy law. Instead, the United States has a series of laws that often cover a specific industry or economic sector, or a specific use of some class of data. Many of these laws are significantly qualified by exemptions. Current statutes cover areas such as: the federal government's collection of personal information; "matching" of computerized federal records; consumer credit reports; driver's records; interception and disclosure of electronic communications; video tape rentals and sales; telecommunications services; and educational records.

Critics of the U.S. approach believe that it results in a "patchwork of uneven, inconsistent, and often irrational privacy protection ... information about a person's video rentals receives considerable statutory protection; information about medical condition and treatment does not." Defenders believe that a sectoral approach makes sense because it is difficult to develop a "one size fits all" policy -- given the different risks involved in the disclosure of personal information and the different interests that need to be balanced.

## **III. What is current Administration policy?**

### *Privacy principles*

In 1995, the Administration, as part of its "National Information Infrastructure" initiative,

released its "Principles for Providing and Using Personal Information." The Privacy Principles are designed to apply to the collection and use of information by both government and industry, and draw on existing international fair information practices such as the OECD guidelines.

The Privacy Principles call on those who gather and use personal information to recognize and respect the privacy interest that individuals have in personal information by (1) assessing the impact on privacy in deciding whether to obtain or use personal information; and, (2) obtaining and keeping only information that could be reasonably expected to support current or planned activities. Data gatherers should use the information only for those current or planned activities or for compatible purposes.

Because individuals need to be able to make informed decisions about providing personal information, the organizations that collect information should disclose: (1) why they are collecting the information; (2) for what purposes they expect to use the information; (3) what steps will be taken to protect the confidentiality, quality and integrity of information collected; (4) the consequences of providing or withholding information; and (5) any rights of redress that are available to individuals for wrongful or inaccurate disclosure of their information.

In July 1997, the President released the Administration's "Framework for Global Electronic Commerce." The Framework stated that the "private efforts of industry working in cooperation with consumer groups are preferable to government regulation, but if effective privacy protection cannot be provided in this way, we will reevaluate this policy." The Secretary of Commerce must report to the President in July 1998 on the progress that has been made on industry self-regulation to protect privacy.

#### *Medical records*

It is not the Administration's position that industry self-regulation is adequate in all instances. On September 1997, HHS Secretary Shalala called for federal legislation on medical records consistent with the following principles:

- A prohibition on the disclosure of patient-identifiable information except as authorized by the patient or as explicitly permitted by the legislation (exceptions for public health, research, law enforcement, and oversight of the health care system).
- Provide consumers with significant new rights to be informed about how their health information will be used and who has seen that information.
- Punishment for those who misuse personal health information and redress for people who are harmed by its misuse.

#### **IV. What is the U.S.-EU dimension of the privacy issue?**

The United States and the European Union have significantly different approaches to privacy. The EU has adopted a Directive on Data Protection, which becomes effective in October 1998. One provision of the Directive prohibits transfer of personal information to other countries that lack "adequate" protection of privacy. If the EU were to rule that the U.S. does not provide "adequate protection" of privacy - it could significantly reduce the flow of data between the U.S. and Europe and disrupt trade and the operations of U.S. firms doing business in Europe.

The EU Directive is different from the U.S. approach because it:

- Covers all sectors and is extraordinarily broad;
- Requires that anyone that is processing personal data register with national authorities before beginning any data processing; and
- Requires member states to establish an independent public authority that can wield investigatory powers, hear complaints, order the cessation of data processing activities, block the transfer of data to third parties, and impose penalties.

Some analysts believe that the EU Directive is so broad that it will make routine behavior illegal (e.g. a salesperson who enters names on a laptop without someone's unambiguous consent and leaves the country) -- and that the EU can not possibly enforce the letter of the law.

It is not yet clear whether the EU would regard a U.S. industry-led initiative to strengthen privacy protection as "adequate."

## V. What are some potential options to strengthen the privacy of Americans?

**Option A. Define what effective industry self-regulation is -- promote efforts by the private sector to achieve effective self-regulation.**

The Commerce Department has developed a set of criteria for judging whether or not a self-regulatory regime is effective that it plans to publish in the *Federal Register* for comment. These criteria include support for the key fair information principles discussed above, and enforcement mechanisms, including:

- **Consumer recourse** for resolution of disputes.
- **Verification** that the assertions businesses make about their privacy practices are true and that privacy practices have been implemented as represented.
- **Consequences.** For self-regulation to be effective, failure to comply with fair information practices should have consequences (e.g. cancellation of the right to use a certifying seal

or logo, posting the name of the non-complier on a publicly available "bad-actor" list, disqualification from membership in an industry trade association, liability for fraud).

A coalition of U.S. businesses, lead by IBM, proposes to create a self-regulatory umbrella group to promote compliance with fair information practices on the Internet that the Commerce Department believes is consistent with its principles. The group intends to "preview" the initiative in May (at the DOC privacy event), with a commitment to begin operations in September, 1998. At this point, the composition of the alliance has not gelled. We understand that AT&T, EDS, Hewlett-Packard, and a number of other businesses are in discussion with IBM.

A longer description of the private sector initiative is attached.

**Option B. Establish a "privacy entity" within the federal government.**

One criticism of the U.S. privacy policy is that there is no part of the government that has privacy as its primary mission. A privacy entity within the federal government could have a number of functions, including:

- **Representational:** Explain and promote the U.S. government position on privacy policy domestically and internationally.
- **Advisory:** Provide technical assistance to privacy policy questions raised by government agencies and by private sector entities.
- **Coordination:** Apprise appropriate government agencies of emerging privacy issues and ensure that these issues are addressed
- **Regulatory/enforcement:** Create and administer legally enforceable regimes of fair information practices including the use of some combination of inspection, registration, reporting, civil or criminal action, adjudication, and penalties. [Note that this would be inconsistent with Administration policy to date.]
- **Ombudsman:** Case-by-case assistance to consumers or businesses in resolving in response to their particular problems or complaints.
- **Education:** Provide privacy information (including model practices and "rights and responsibilities") to citizens, industry, and government.
- **Consumer Advocacy:** Monitor privacy policies that affect consumers and promoting improvements through public appearances, media presence, writing to organizations about whom complaints are received, and involvement in litigation.

- **Evaluation:** A policy advocacy role (as contrasted with a consumer advocacy or ombudsman role) to give opinions, promote good ideas and practices, and scrutinize less good ones.

After deciding what functions the “privacy entity” would carry out -- the Administration would have to decide where to put it. A longer discussion of the proposed functions of a “privacy entity” is attached.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 7-APR-1998 12:22:42.00

SUBJECT:

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

READ: UNKNOWN

TEXT:

Don't forget about 12:30 lunch at Bombay Club

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Essence P. Washington ( CN=Essence P. Washington/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME: 7-APR-1998 12:45:20.00

SUBJECT: Weekly Crime Meeting

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

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

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

TO: NELSON\_J ( NELSON\_J @ A1 @ CD @ LNGTWY [ UNKNOWN ] )  
READ:UNKNOWN

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

TO: Rahm I. Emanuel ( CN=Rahm I. Emanuel/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

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

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

TO: Peter G. Jacoby ( CN=Peter G. Jacoby/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: Teresa L. Collins ( CN=Teresa L. Collins/OU=OMB/O=EOP @ EOP [ OMB ] )  
READ:UNKNOWN

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

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

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

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

TO: GALLEGOS\_S ( GALLEGOS\_S @ A1 @ CD @ VAXGTWY [ UNKNOWN ] )

READ:UNKNOWN

TO: Charles A. Blanchard ( CN=Charles A. Blanchard/OU=ONDCP/O=EOP @ EOP [ ONDCP ] )  
READ:UNKNOWN

TO: Jennifer Brown ( CN=Jennifer Brown/OU=ONDCP/O=EOP @ EOP [ ONDCP ] )  
READ:UNKNOWN

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

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

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

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

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

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

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

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

TEXT:  
MEMORANDUM TO DISTRIBUTION LIST

FROM: Bruce Reed  
Assistant to the President for Domestic Policy

SUBJECT: April 8 1998 CRIME MEETING

On Wednesday, April 8, at 2:00 p.m. in Room 211 of the Old Executive Office Building, we will hold the weekly crime meeting.

Thank You.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Angélique Pirozzi ( CN=Angélique Pirozzi/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 7-APR-1998 12:56:24.00

SUBJECT: Weekly PIR/White House Coordinating Meeting, Thursday @ 4:30 pm in 472.

TO: Maureen T. Shea ( CN=Maureen T. Shea/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

TO: Elizabeth Harrington ( CN=Elizabeth Harrington/O=OVP @ OVP [ UNKNOWN ] )  
READ:UNKNOWN

TO: Michele Cavataio ( CN=Michele Cavataio/OU=PIR/O=EOP @ EOP [ PIR ] )  
READ:UNKNOWN

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

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

TO: Tamara Monosoff ( CN=Tamara Monosoff/OU=PIR/O=EOP @ EOP [ PIR ] )  
READ:UNKNOWN

TO: Lydia Sermons ( CN=Lydia Sermons/OU=PIR/O=EOP @ EOP [ PIR ] )  
READ:UNKNOWN

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

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

TO: Beverly J. Barnes ( CN=Beverly J. Barnes/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: Lin Liu ( CN=Lin Liu/OU=PIR/O=EOP @ EOP [ PIR ] )  
READ:UNKNOWN

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

TO: Michael J. Sorrell ( CN=Michael J. Sorrell/OU=PIR/O=EOP @ EOP [ PIR ] )  
READ:UNKNOWN

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

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

READ:UNKNOWN

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

TO: Katherine D. Sheckells ( CN=Katherine D. Sheckells/OU=PIR/O=EOP @ EOP [ PIR ] )  
READ:UNKNOWN

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

TO: Miriam H. Vogel ( CN=Miriam H. Vogel/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

TO: Maurice Daniel ( CN=Maurice Daniel/O=OVP @ OVP [ UNKNOWN ] )  
READ:UNKNOWN

TO: Audrey M. Hutchinson ( CN=Audrey M. Hutchinson/OU=PIR/O=EOP @ EOP [ PIR ] )  
READ:UNKNOWN

TO: Claire Gonzales ( CN=Claire Gonzales/OU=PIR/O=EOP @ EOP [ PIR ] )  
READ:UNKNOWN

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

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

TO: Amy W. Tobe ( CN=Amy W. Tobe/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

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

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

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

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

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

TO: Judith A. Winston ( CN=Judith A. Winston/OU=PIR/O=EOP @ EOP [ PIR ] )

READ:UNKNOWN

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

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

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

TEXT:  
AGENDA TO FOLLOW.

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Julie Fernandes to Elena Kagan. Subject: H1B Deputy's meeting [partial] (1 page)	04/07/1998	P6/b(6)

### COLLECTION:

Clinton Presidential Records  
Automated Records Management System (Email)  
WHO ([Kagan])  
OA/Box Number: 500000

### FOLDER TITLE:

[04/07/1998 - 04/08/1998]

2009-1006-F  
ke733

### RESTRICTION CODES

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

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

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

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

RR. Document will be reviewed upon request.

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

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 7-APR-1998 13:01:16.00

SUBJECT: H1B Deputy's meeting

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Elena,

As you know, Sally wants to convene a Deputy's meeting on H1B this week. Ceci and I are working on a background memo for you and Sally which you should have by the end of the day. The memo discusses proposed H1B reforms and training in some detail, in order to allow you'all to determine whether there are versions of these reforms that we would not support.

Sally would like for the meeting to take place Thursday afternoon (at 2 or 3pm). However, P6/(b)(6) she may not be able to make it and would like you to convene. According to Laura, you have some time Thursday afternoon. Should Laura go ahead and set this up? Thanks.

[007]

Julie

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 7-APR-1998 13:18:20.00

SUBJECT: Just got this Rahm/Gene call for a meeting...fyi

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

----- Forwarded by Cynthia A. Rice/OPD/EOP on 04/07/98  
01:17 PM -----

Michelle Crisci

04/07/98 01:16:47 PM

Record Type: Record

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

cc:

Subject:

Rahm and Gene would like to hold an internal meeting on the issue of social security and prisoners. The meeting will be at 11:30 this Wednesday morning in Gene's office. Please call me at 62531 if you have any questions. Thanks!

Message Sent

To: \_\_\_\_\_

- Jose Cerda III/OPD/EOP
- Leanne A. Shimabukuro/OPD/EOP
- Cynthia A. Rice/OPD/EOP
- Diana Fortuna/OPD/EOP
- Barbara Chow/OMB/EOP
- Peter A. Weissman/OPD/EOP
- Melissa G. Green/OPD/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Thomas L. Freedman ( CN=Thomas L. Freedman/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME: 7-APR-1998 13:27:08.00

SUBJECT: Draft Tobacco Background

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

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

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

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

TEXT:

Here is the draft background memo. We've asked USDA to double check this version and the numbers they sent us.===== ATTACHMENT 1 =====  
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D48]MAIL420715695.026 to ASCII,  
The following is a HEX DUMP:

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April 7, 1998 (Draft)

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED  
ELENA KAGAN  
TOM FREEDMAN

SUBJECT: KENTUCKY TRIP AND ROUNDTABLE WITH TOBACCO  
FARMERS

On Thursday, April 9, you will travel to Carrollton, Kentucky to meet with tobacco farmers, community leaders, and children. During this trip, you will reaffirm your commitment to protect tobacco farmers and their communities, while also emphasizing the need to reduce youth smoking. The trip will also allow you to express support for a plan to protect tobacco farmers authored by Senator Ford that is included in Senator McCain's legislation.

**Structure of the Trip**

You will first travel to a tobacco warehouse where you will hold a roundtable discussion on how to protect farmers and their communities. The participants in the discussion are expected to be a local farmer, a farmer who represents growers statewide and has worked well with the Campaign for Tobacco Free Kids, a minority farmer who has raised many foster children using her revenue from tobacco, the owner of the warehouse you are visiting, a student who wants to be a farmer, the head of the state farm bureau, a local religious leader, and a community activist who has helped bring farmers and health advocates together. Secretary Glickman will also participate on the panel, and Governor Patton and Senator Ford will be present but speak at the second event.

After the roundtable, you will travel to a school where you will address students and reinforce the message of reducing youth smoking.

**Background on Kentucky Tobacco Farmers**

**There are two main types of tobacco, flue-cured and burley. Burley tobacco is the primary crop in Kentucky, with revenues of more than \$1 billion in 1997 for the nearly 700 million pounds grown. In 1997, approximately 70 percent of the burley tobacco produced in the United States came from Kentucky. The majority of burley tobacco producers in Kentucky favor continuation of the federal price support program.**

**Many Kentucky tobacco farms are very small. The average Kentucky tobacco**

farm plants only 4.5 acres of tobacco, while Alabama averages 23.9 acres of tobacco per farm, and South Carolina averages 25.5 acres per farm. However, large farms dominate Kentucky's burley tobacco business. Last year, 70 percent of the total burley sold came from only 26 percent of the farms.

Tobacco is a major part of the Kentucky economy. Tobacco sales account for nearly 30 percent of the total crop revenue for Kentucky. Nearly \$4 billion is generated annually from the production and sale of tobacco.

According to USDA, Kentucky experienced an abnormal year for their 1997 burley tobacco crop. Adverse weather conditions resulted in tobacco with high moisture content that was of a generally low quality and received a low price.

### Tobacco Program Background

Since the 1930s, tobacco prices have been supported and stabilized by the federal government's commodity support program. One part of the program involves limiting supply through a quota program. A quota entitles the owner to grow a certain percentage of the national supply of tobacco for that year. Under the quota program, the government determines each year how much tobacco the companies expect to buy, how much will be sold overseas plus a modest reserve, and then divides up the right to grow that full amount among the quota holders. The quota can be sold, rented or leased. In addition, the tobacco program guarantees an acceptable price at which farmers can sell their tobacco. The price-support system ensures that farmers can sell tobacco at a statutory minimum price to their cooperatives if companies cease to buy on the open market. In this program, the government loans funds to the cooperatives to purchase tobacco, funds which are repaid from the proceeds of future sales.

Producers of the different kinds of tobacco vote in triennial referenda to determine if they wish to continue the federal tobacco program for their kind of tobacco. In a referendum in late February, 97.5 percent of burley producers voted to continue the price support-production control program.

### The AG's Settlement Agreement

The settlement agreement with the Attorneys General did not outline a plan to compensate farmers for the diminished domestic tobacco sales that might result from comprehensive legislation. You, however, made protecting tobacco farmers and their communities one of the five key elements of your plan for comprehensive tobacco legislation.

### Legislative Background

Three types of legislative approaches for farmers have been discussed. First,

**Senator Lugar proposed legislation that would quickly “buy-out” quota owners from the governmental system at approximately \$8 a pound. In Senator Lugar’s plan, tobacco prices would then be subject to the free market. Second, Senator Ford proposed legislation that would maintain the current quota system, while also compensating farmers (up to \$8 per pound) for the difference between the prices they would have enjoyed without legislation and the diminished prices they may experience. Senator Ford’s bill also includes transition fund for communities. Finally, Senator Robb had proposed legislation that would combine elements of both of the above approaches. He sought to buy-out farmers, but replace the quota system with a production control system based on permits. Unlike quotas, permits would be given only to those who actually grew tobacco and could not be bought or rented.**

**Senator Ford’s proposal, the LEAF Act, appealed mostly to burley growers like those in Kentucky who have small farms and want to continue the quota program. Senator Robb’s approach gained some support from flue-cured farmers (based mainly in North Carolina, South Carolina and Virginia) who believe the buy-out and license system better fits more capital-intensive flue-cured production. Senator Lugar’s approach has not attracted widespread support; even tobacco-state senators like McConnell who philosophically favor this approach probably will not come out for it publicly.**

#### **Farmers’ Legislation Included in McCain Tobacco Bill**

Senators Ford, Frist, and Hollings, the three members of the Senate Commerce Committee from tobacco-growing states, joined together to include a generous farmer provision in the McCain tobacco legislation. While maintaining a production control system for all tobacco farmers, this package sets up somewhat different systems for burley and flue-cured tobacco. For burley tobacco (grown mostly in Kentucky), the package includes an optional buy-out for quota holders at \$8 per pound, and retains the quota system for those who do not take the buyout, but provides payments to both remaining quota holders; lessees, and tenants to the extent that quota prices decline. For flue-cured tobacco, the plan provides for a mandatory buyout of existing quota holders, and replaces the quota system with a permit system that gives the new no-cost permits to active producers, regardless of whether they previously held a quota. This transferring of quotas from inactive quota holders to actual producers was part of the Senator Robb’s proposal and is intended to make it possible for active farmers to sell tobacco without incurring the cost of buying or renting quota. The McCain package also provides approximately \$500 million for assistance to tobacco-producing communities. The package costs \$2.1 billion per year for the first ten years and \$500 million for years 11-25 for a total of \$28.5 billion. For the most part, tobacco farmers are very pleased with the proposal included in the McCain legislation.

Below is a table with the major provisions for tobacco farmers in the McCain legislation.

<b>Payments to Tobacco Farmers Under Proposed Legislation</b>
---

	<b>Burley, fire-cured, and dark air-cured tobaccos</b>	<b>Flue-cured tobacco</b>
<b>Buy-out</b>	<u>Optional</u> one-time buy-out at \$8/lb over 10 yrs or less	<u>Mandatory</u> buy-out of all quota holders at \$8/lb over 10 yrs or less
<b>Those who remain in program --quota or permit</b>	Those who do not take the optional buy-out retain their existing quota	Active producers will be issued a <u>permit</u> at no cost -- changing the old quota system to a new permit system for flue-cured, and allowing only active producers stay in program
<b>Payments to remaining quota holders who remain in system</b>	Remaining quota holders get payments to the extent quota falls equal to \$4/lb for every pound quota drops, with a lifetime limit of \$8/lb times the entire quota	No remaining quota holders
<b>Lessees (Burley), Renters (Flu-cured), and tenants (essentially sublessees)</b>	Lessees and tenants get (1) option to acquire relinquished quota (if any), and (2) payments to the extent quota falls equal to \$2/lb for every pound quota drops, with a lifetime limit of \$4/lb times the entire quota	Renters and tenants get (1) permits limiting right to produce future crops, and (2) payments to the extent national quota falls equal to \$2/lb for every pound quota drops, with a lifetime limit of \$4/lb times the entire quota

Other Provisions:

**Tobacco Community Economic Development Grants:** Block grants to tobacco states will be made annually for rural business enterprise grants, farm ownership loans, initiatives which create farm and off-farms employment, expanding infrastructure, long-term business technical assistance, supplemental agricultural activities, value-added agricultural initiatives, and compensation to warehouse owners. The program is authorized for \$375 million. At least 20 percent of the funds must be spent on agricultural activities, 4 percent on long-term technical assistance, and 6 percent on warehouse owners.

**Benefits for Dislocated Workers:** Up to \$25 million annually for 10 years will be made

available to provide benefits based on the NAFTA displaced workers program. This program will be administered by the Secretary of Labor.

**Farmer Opportunity Grants:** Quota holders and active tobacco producers and their families are eligible for higher education grants of up to \$1,700 per academic year, adjusted upward every five years by \$300. Academic eligibility is modeled after Pell grants, and the program is administered by the Secretary of Education.

**Costs Incidental to the Program:** All USDA costs associated with tobacco are paid out of a tobacco growers trust fund, including administrative costs, crop insurance, cooperative extension service costs, and any other costs.

**Total Costs:** \$2.1 billion per year for the first ten years, \$500 million for years 11-25, for a total of \$28.5 billion.

- Annual payments to tobacco farmers set at \$1.65 billion.
- Economic development grants set at \$375 million less administrative costs for first ten years.
- Assistance for dislocated workers set at \$25 million annually for ten years.

### **Secretary Glickman's Trip to Kentucky**

Last Friday, on April 3, Secretary Glickman and Tom Freedman traveled to Lexington, Kentucky to attend a Farm Forum at Gentry Tobacco Warehouse with 600 to 700 farmers, government officials, and agribusiness leaders. The farmers were generally supportive of the Administration. Their main concerns were that the tobacco program be kept in place and that small farmers not be adversely affected.

### **Attachments**

- Background on General State of the Tobacco Industry (prepared by USDA)
- Background on Farmer Portion of the McCain Legislation (prepared by USDA)
- Highlights of Kentucky Tobacco Farmer Survey from February 10-19, 1998 (Campaign for Tobacco-Free Kids and the Kentucky Health and Agriculture Forum)
- Maps showing the distribution of tobacco production in Kentucky
- Regional Press Clips from Secretary Glickman's Trip to Kentucky

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 7-APR-1998 13:52:39.00

SUBJECT: Possible Announcements for President's trip to Kentucky

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

You asked about possibilities for an announcement on Thursday in order to involve the states in the process of the farmers' piece of the legislation. The attached memo lists four possible options. Let me know if you have any questions. Mary===== ATTACHMENT 1 =====  
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

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## Options for Announcement for President's Visit to Tobacco Farmers in Kentucky

The idea is to involve the states and the tobacco-growing communities in the process surrounding the farmers' piece of tobacco legislation. The President could announce a working group consisting of the agencies and representatives from the states to listen to farmers' concerns about the legislation. Here are four ideas for how the working group could be set up:

1. Special Unit in USDA Outreach Office. USDA already has an outreach office whose purpose is to reach out to the various farmers' groups and communities. A special unit within this office could be devoted solely to the tobacco legislation. However, USDA could not formally create an advisory panel with state representatives selected by the various governors because they have already reached their limit on advisory panels under the Federal Advisory Committee Act (FACA). Nonetheless, if the governors set up meetings in their states, USDA could attend those meetings. There are funding issues with this option.
2. Partnership with the National Governors' Association (NGA). The President could announce a working group comprised of the Secretaries of USDA, Labor, and Education. In order to avoid the constraints of FACA, the Secretaries, and not the advisory panel selected by NGA, would report to the President. However, the President could direct the Secretaries to meet with the NGA representatives in order to listen to their concerns. The advantages of this approach are that we are not handpicking certain governors, thereby giving the impression that certain states are receiving special treatment. In addition, NGA could probably set this working group up fairly quickly, although we would need to check with them. This working group would hold meetings around the country to talk with farmers about their concerns on the tobacco legislation. The NGA also might be able to provide staff assistance and be able to produce a summary report from all the meetings with the farmers.
3. Working Group Directly between States and the Agencies. This option is similar to the previous option, except that it eliminates the middleman of the NGA. Under this option, the Administration could deal directly with the governors who would select a representative to be meet with the Secretaries of Labor, Education, and USDA. The President could announce a series of townhall meetings with farmers. These meetings would be attended by representatives from the agencies and representatives selected by the governors.
4. Executive Order or Memo to Create a Working Group. Under this option, an executive order or memo would create the working group consisting of the various agencies (USDA, Labor, and Education) who would be directed to meeting with the governors' representatives. The disadvantage is that this is the most formalized method of creating this working group, and there might be some legal considerations to this option. DOJ advises against creating this working group through executive order; DOJ would prefer that this be done through a Presidential memorandum. In the past, working groups created pursuant to executive orders have often not been set up very quickly.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 7-APR-1998 13:52:45.00

SUBJECT: International Tobacco Update

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

READ:UNKNOWN

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

READ:UNKNOWN

CC: Cynthia Dailard ( CN=Cynthia Dailard/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Ford-Hollings-Wyden Update

We are meeting today with Ford and Hollings staff to make sure we're on the same page on the Wyden international provisions (we are).

Ford and Hollings staff want to get us together with Wyden tomorrow. For tomorrow, we'd like to focus on the least controversial issues (should anything leak out for Thursday):

Doggett: The so-called "Doggett" language which forbids the use of federal funds to promote the sale, manufacture, advertising or export of tobacco. We support making permanent the simple Doggett provision, but USTR has serious concerns about Wyden's more expansive "Super Doggett" language which could prevent the US from negotiating to reduce or eliminate all tariffs (including tobacco tariffs) as part of a larger negotiation and establishes an "arbitrary and unjustifiable" standards on which to judge whether a country treats the products of one country less favorably than another.

Funding: We strongly support funding both governmental and non-governmental efforts (Wyden funds only non-governmental efforts). We oppose what is essentially a 2 cent per pack excise tax on all exported cigarettes, and Treasury tax policy says it probably violates the U.S. Shoe ruling the Supreme Court handed down last week.

Labeling/Marketing/Advertising: We are also ready to discuss -- but thought we should wait until after Thursday -- the labeling, marketing, and advertising provisions which would require U.S. firms to apply the new U.S. law when overseas. (The State Department objects to exporting our laws abroad -- "extraterritoriality" as they call it -- and say they are as a practical matter unenforceable. HHS and State agree that we would do more to protect the world's children if we work on a multilateral basis through the World Health Organization to encourage other countries to adopt similar laws.)

Other Issues: There are several other issues we will have internal meetings on tomorrow to make sure we have a handle on them. They are provisions involving military bases, duty free shops, and international anti-smuggling efforts. Thus, we are not planning to discuss with Ford,

Hollings, or anyone else until we discuss internally first. I'll let you know how those meetings go.

Waxman Update

Waxman's staff has called DOJ for a technical briefing on the Foreign Corrupt Practices Act (which prohibits U.S. companies from bribing officials overseas and is conceptually analogous to forbidding U.S. companies from engaging in certain marketing and advertising practices overseas). Waxman's staff also called Treasury to find out what we're thinking generally on international. I'm afraid we need to meet with them -- probably shortly after we meet with Wyden. What do you think?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 7-APR-1998 13:57:59.00

SUBJECT: I saw Ivan after my international meeting

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

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

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

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

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

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

TEXT:

He said they'd be happy to get any and all bill clean-up comments -- late in the week would work. They are trying to complete language by the end of next week. He lamented how they're getting "killed" by the industry.

He said Hollings and McCain are doing a S.C. tobacco event on Friday. Jacoby and I told him the President will be in Kentucky on Thursday -- Ivan said we should invite McCain and that we need to work to keep McCain bought in. I did not tell Ivan, but now wonder if I should have, that Ford will be part of our Thursday event.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cynthia Dailard ( CN=Cynthia Dailard/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME: 7-APR-1998 16:40:47.00

SUBJECT: international tobacco meeting

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

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

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

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

TEXT:

Tomorrow, we have two meetings scheduled with Wyden's staff (along with Lautenberg and Durbin staff) to discuss international tobacco issues. The first is at 11am on Doggett. Peter Jacoby sees some value in USTR handling this alone without DPC staff, because USTR appeared to be making some progress on this subject with Wyden's staff around the time of the markup. At the same time, this would go against our policy of having DPC staff attending all tobacco meetings.

Our second meeting with Wyden's staff is at 2:30 to discuss funding for international tobacco efforts and the excise tax. We can always follow up with them on Doggett at the 2:30 meeting if we do not attend the 11am meeting. Any thoughts on whether one of us needs to be at the 11am meeting?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 7-APR-1998 16:57:23.00

SUBJECT:

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

TEXT:

Reminder: 5:00 Tobacco mtg. in Erskine's Office

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Demond T. Martin ( CN=Demond T. Martin/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 7-APR-1998 17:34:03.00

SUBJECT: LCCR Mtg.

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

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

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

TO: Judith A. Winston ( CN=Judith A. Winston/OU=PIR/O=EOP @ EOP [ PIR ] )  
READ:UNKNOWN

TO: Edward W. Correia ( CN=Edward W. Correia/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

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

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

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

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

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

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

CC: Mona G. Mohib ( CN=Mona G. Mohib/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

CC: Marjorie A. Black ( CN=Marjorie A. Black/OU=PIR/O=EOP @ EOP [ PIR ] )  
READ:UNKNOWN

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

TEXT:

Sylvia Mathews will hold a LCCR Mtg. Thursday April 9, in the Roosevelt Rm from 5:00pm-6:00pm.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 7-APR-1998 18:05:57.00

SUBJECT: Re: LCCR Mtg.

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

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

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

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

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

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

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

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

TO: Judith A. Winston ( CN=Judith A. Winston/OU=PIR/O=EOP @ EOP [ PIR ] )  
READ:UNKNOWN

TO: Edward W. Correia ( CN=Edward W. Correia/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

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

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

CC: Mona G. Mohib ( CN=Mona G. Mohib/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

CC: Marjorie A. Black ( CN=Marjorie A. Black/OU=PIR/O=EOP @ EOP [ PIR ] )  
READ:UNKNOWN

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

TEXT:

The purpose of the 5:00 meeting on Thursday is to prepare for the meeting with LCCR on April 17. At Thursday's meeting we will discuss the topics that LCCR would like to discuss with us and we will assign responsibilities to folks to prepare our response to those issues. Initial intelligence indicates that Wade, et al., will want to discuss black farmers, reparations for Asians from Latin America that were put in Internment camps during WW2, and the expected negative budget effect that the large transportation (ISTEA) bill will have on programs like food stamps. Maria will provide a more complete report on Thursday. [Note: given this proposed list, is there anyone not already invited to this meeting that should be -- like someone who can talk about the budget or our position on reparations? Please let me know.]

In addition to responding to their issues, we need to develop a short list of agenda items that we will want to pursue with them (for example, assistance with the anti-affirmative action initiative in Washington state, Bill Lee). Please send me whatever ideas you have for topics that we should raise with LCCR, assistance we should seek. I will compile the list and bring it to our meeting on Thursday for discussion.

Thank you.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Nicole R. Rabner ( CN=Nicole R. Rabner/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 7-APR-1998 18:16:39.00

SUBJECT: Treasury Working Group Scheduling Request

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

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

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

CC: Patricia Solis-Doyle ( CN=Patricia Solis-Doyle/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TEXT:

Jen and I understand that at Erskine's Thursday scheduling meeting, there will be a discussion of the POTUS scheduling request for a WH event on October 23rd highlightling the release of the final report of the Treasury Working Group on Child Care. Our understanding is that on the 23rd the President has many hours of meetings scheduled with a foreign head of State, and there is some question as to how this event will fit in.

On our scheduling request, we had suggested the late morning for this event, as the CEOs on the Treasury Working Group are scheduled for their working meeting with Rubin at 10:30am. We had hoped that just following this meeting, we could have the public event at the White House. Apparently, the Treasury Department had a great deal of difficulty finding a date and time that worked for the various CEOs and others on the working group, and we would like to stick to this time-frame. On the other hand, if an alternate time works for the President and the First Lady on that day, the Treasury staff could go back to the CEOs. So while the date is unchangeable, there may be some flexibility with the time, just fyi.

Attached, also fyi, is the scheduling request.===== ATTACHMENT 1 ==  
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D85]MAIL43012769G.026 to ASCII,  
The following is a HEX DUMP:

FF57504370040000010A02010000000205000000CB19000000020000D10918480FD9AA04B30906

Automated Records Management System

Hex-Dump Conversion

SCHEDULING PROPOSAL

DATE OF SUBMISSION: 3/31/98

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<u>          </u>	<u>          </u>	<u>          </u>	<u>          </u>
REGRET	PENDING	ACCEPT	

---

TO: Stephanie Streett, Assistant to the President and Director of Presidential Scheduling

FROM: Bruce Reed, Assistant to the President and Director of Domestic Policy  
Melanne Verveer, Assistant to the President and Chief of Staff to the First Lady  
Maria Escheveste, Assistant to the President and Director of the White House Office of Public Liaison  
Audrey T. Haynes, Deputy Assistant to the President and Director of the White House Women's Office

REQUEST: For the President to participate in the release of two reports on child care: (1) the Treasury Department's Child Care Working Group (comprised of CEOs, organized labor reps, and experts) report on business involvement in offering child care services to workers, and (2) the Department of Labor's new Child Care Honor Roll of U.S. companies providing model child care services to their employees.

PURPOSES: (1) To mark Take Our Daughters to Work Day by highlighting the President's child care initiative and thereby adding needed visibility and momentum to his child care proposals; and (2) specifically to highlight the President's proposed tax credit for businesses that provide child care services to their employees.

PREVIOUS PARTICIPATION: At the White House Conference on Child Care on October 23, 1997, the President asked Secretary Rubin to lead a Child Care Working Group and to report back to him.

The President and the First Lady traditionally have marked Take Our Daughters to Work Day by addressing White House gatherings of employees and their children.

DATE AND TIME: April 23, 1998  
Preferred time, approx. 11:30am (Secretary Rubin will convene the

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

CEOs at 10:30 for a working meeting; the event should take place sometime soon thereafter).

**BRIEFING TIME:** 10-15 minutes

**DURATION:** One hour

**LOCATION:** Rose Garden, East Room, Room 450 or Roosevelt Room

**PARTICIPANTS:** (1) The Treasury Child Care Working Group (comprised of CEOs, labor representatives, and expert advisors); (2) Representatives of businesses highlighted in the DOL Honor Roll; and (3) Federal Employees bringing their daughters to work (especially EOP, Treasury and DOL employees).

**OUTLINE OF EVENTS:** A short speaking program including: (1) Secretary Rubin and a prominent CEO presenting the findings of the Treasury Working Group; (2) Secretary Herman (t) releasing the DOL Child Care Honor Roll; (3) the First Lady; (4) a daughter participating in Take Our Daughters to Work Day; and (5) the President.

**REMARKS REQUIRED:** Approx. 5-10 minutes of remarks to be prepared by the office of speechwriting.

**MEDIA COVERAGE:** Open press.

**FIRST LADY'S ATTENDANCE:** Yes.

**VICE PRESIDENT'S ATTENDANCE:** Not required.

**CONTACT:** Jennifer Klein (6-2599).

**ORIGIN OF PROPOSAL:** White House/Treasury staff generated.

**SECOND LADY'S ATTENDANCE:** Not required.

**SOURCE OF PAYMENT:** Treasury Department.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 7-APR-1998 18:31:28.00

SUBJECT: draft of memo to the President

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

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

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

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

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

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

TEXT: .

Here is a draft of the memo to the President. The figures in this memo have been checked by USDA. I will bring over a copy of the attachments.

Thanks, Mary===== ATTACHMENT 1 =====

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

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D0]MAIL46682769D.026 to ASCII,  
The following is a HEX DUMP:

FF575043C8080000010A02010000000205000000CB4900000002000041E9BB55ADAC619B7107F3

April 7, 1998 (Draft)

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED  
ELENA KAGAN  
TOM FREEDMAN

SUBJECT: KENTUCKY TRIP AND ROUNDTABLE WITH TOBACCO  
FARMERS

On Thursday, April 9, you will travel to Carrollton, Kentucky to meet with tobacco farmers, community leaders, and children. During this trip, you will reaffirm your commitment to protect tobacco farmers and their communities, while also emphasizing the need to reduce youth smoking. The trip will also allow you to express support for a plan to protect tobacco farmers authored by Senator Ford that is included in Senator McCain's legislation.

**Structure of the Trip**

You will first travel to a tobacco warehouse where you will hold a roundtable discussion on how to protect farmers and their communities. The participants in the discussion are expected to be a local farmer, a farmer who represents growers statewide and has worked well with the Campaign for Tobacco Free Kids, a minority farmer who has raised many foster children using her revenue from tobacco, the owner of the warehouse you are visiting, a student who wants to be a farmer, the head of the state farm bureau, a local religious leader, and a community activist who has helped bring farmers and health advocates together. Secretary Glickman will also participate on the panel, and Governor Patton and Senator Ford will be present but speak at the second event.

After the roundtable, you will travel to a school where you will address students and reinforce the message of reducing youth smoking.

**Background on Kentucky Tobacco Farmers**

There are two main types of tobacco, flue-cured and burley. Burley tobacco is the primary crop in Kentucky, with revenues of more than \$800 million in 1997 for the nearly 450 million pounds grown. In 1997, approximately 70 percent of the burley tobacco produced in the United States came from Kentucky. The majority of burley tobacco producers in Kentucky favor continuation of the federal price support program.

Many Kentucky tobacco farms are very small. The average Kentucky tobacco

farm plants only 4.5 acres of burley tobacco. In contrast, flue-cured tobacco farms in North Carolina and South Carolina average 16.1 and 25.5 acres of tobacco per farm, respectively. However, large farms dominate Kentucky's burley tobacco business. Last year, 70 percent of the total burley sold came from only 26 percent of the farms.

Tobacco is a major part of the Kentucky economy. Tobacco sales account for over 40 percent of the total crop revenue for Kentucky, and over 20 percent of all agricultural sales in Kentucky.

According to USDA, Kentucky experienced an abnormal year for their 1997 burley tobacco crop. Adverse weather conditions resulted in tobacco with high moisture content that was of a generally low quality and received a lower prices than expected.

### Tobacco Program Background

Since the 1930s, tobacco prices have been supported and stabilized by the federal government's commodity support program. One part of the program involves limiting supply through a quota program. A quota entitles the owner to grow a certain percentage of the national supply of tobacco for that year. Under the quota program, the government determines each year how much tobacco the companies expect to buy, how much will be sold overseas plus a modest reserve, and then divides up the right to grow that full amount among the quota holders. The burley quota can be sold, rented or leased. In addition, the tobacco program guarantees an acceptable price at which farmers can sell their tobacco. The price-support system ensures that farmers can sell tobacco at a statutory minimum price to their cooperatives if companies cease to buy on the open market. In this program, the government loans funds to the cooperatives to purchase tobacco, which are repaid from the proceeds of future sales.

Producers of the different kinds of tobacco vote in triennial referenda to determine if they wish to continue the federal tobacco program for their kind of tobacco. In a referendum in late February, 97.5 percent of burley producers voted to continue the price support-production control program.

### The AG's Settlement Agreement

The settlement agreement with the Attorneys General did not outline a plan to compensate farmers for the diminished domestic tobacco sales that might result from comprehensive legislation. You, however, made protecting tobacco farmers and their communities one of the five key elements of your plan for comprehensive tobacco legislation.

### Legislative Background

Three types of legislative approaches for farmers have been discussed. First,

**Senator Lugar proposed legislation that would quickly “buy-out” quota owners from the governmental system at approximately \$8 a pound. In Senator Lugar’s plan, tobacco prices would then be subject to the free market. Second, Senator Ford proposed legislation that would maintain the current quota system, while also compensating farmers (up to \$8 per pound) for the difference between the prices they would have enjoyed without legislation and the diminished prices they may experience. Senator Ford’s bill also includes transition fund for communities. Finally, Senator Robb had proposed legislation that would combine elements of both of the above approaches. He sought to buy-out farmers, but replace the quota system with a production control system based on permits. Unlike quotas, permits would be given only to those who actually grew tobacco and could not be bought or rented.**

**Senator Ford’s proposal, the LEAF Act, appealed mostly to burley growers like those in Kentucky who have small farms and want to continue the quota program. Senator Robb’s approach gained some support from flue-cured farmers (based mainly in North Carolina, South Carolina and Virginia) who believe the buy-out and license system better fits more capital-intensive flue-cured production. Senator Lugar’s approach has not attracted widespread support; even tobacco-state senators like McConnell who philosophically favor this approach probably will not come out for it publicly.**

#### **Farmers’ Legislation Included in McCain Tobacco Bill**

Senators Ford, Frist, and Hollings, the three members of the Senate Commerce Committee from tobacco-growing states, joined together to include a generous farmer provision in the McCain tobacco legislation. While maintaining a production control system for all tobacco farmers, this package sets up somewhat different systems for burley and flue-cured tobacco. For burley tobacco (grown mostly in Kentucky), the package includes an optional buy-out for quota holders at \$8 per pound, and retains the quota system for those who do not take the buyout, but provides payments to both remaining quota holders, lessees, and tenants to the extent that base quota declines. For flue-cured tobacco, the plan provides for a mandatory buyout of existing quota holders, and replaces the quota system with a permit system that gives the new no-cost permits to active producers, regardless of whether they previously held a quota. This transferring of quotas from inactive quota holders to actual producers was part of the Senator Robb’s proposal and is intended to make it possible for active farmers to sell tobacco without incurring the cost of buying or renting quota. The McCain package also provides approximately \$500 million for assistance to tobacco-producing communities. The package costs \$2.1 billion per year for the first ten years and \$500 million for years 11-25 for a total of \$28.5 billion. For the most part, tobacco farmers are very pleased with the proposal included in the McCain legislation.

Below is a table with the major provisions for tobacco farmers in the McCain legislation.

<b>Payments to Tobacco Farmers Under Proposed Legislation</b>
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	<b>Burley, fire-cured, and dark air-cured tobaccos</b>	<b>Flue-cured tobacco</b>
<b>Buy-out</b>	<u>Optional</u> one-time buy-out at \$8/lb over 10 yrs or less	<u>Mandatory</u> buy-out of all quota holders at \$8/lb over 10 yrs or less
<b>Those who remain in program --quota or permit</b>	Those who do not take the optional buy-out retain their existing quota	Active producers will be issued a <u>permit</u> at no cost -- changing the old quota system to a new permit system for flue-cured, and allowing only active producers stay in program. Permits may not be sole or leased, but may be transferred to descendents.
<b>Payments to remaining quota holders who remain in system</b>	Remaining quota holders get payments to the extent quota falls equal to \$4/lb for every pound quota drops, with a lifetime limit of \$8/lb times the entire quota	No remaining quota holders
<b>Lessees (Burley), Renters (Flue-cured), and tenants (essentially sublessees)</b>	Lessees and tenants get (1) option to acquire relinquished quota (if any), and (2) payments to the extent quota falls equal to \$2/lb for every pound quota drops, with a lifetime limit of \$4/lb times the entire quota	Renters and tenants get (1) permits limiting right to produce future crops, and (2) payments to the extent national quota falls equal to \$2/lb for every pound quota drops, with a lifetime limit of \$4/lb times the entire quota

Other Provisions:

**Tobacco Community Economic Development Grants:** Block grants to tobacco states will be made annually for rural business enterprise grants, farm ownership loans, initiatives which create farm and off-farms employment, expanding infrastructure, long-term business technical assistance, supplemental agricultural activities, value-added agricultural initiatives, and compensation to warehouse owners. The program is authorized for \$375 million. At least 20 percent of the funds must be spent on agricultural activities, 4 percent on long-term technical assistance, and 6 percent on warehouse owners.

**Benefits for Dislocated Workers:** Up to \$25 million annually for 10 years will be made available to provide benefits based on the NAFTA displaced workers program. This program will be administered by the Secretary of Labor.

**Farmer Opportunity Grants:** Quota holders and active tobacco producers and their families are eligible for higher education grants of up to \$1,700 per academic year, adjusted upward every five years by \$300. Academic eligibility is modeled after Pell grants, and the program is administered by the Secretary of Education.

**Costs Incidental to the Program:** All USDA costs associated with tobacco are paid out of a tobacco growers trust fund, including administrative costs, crop insurance, cooperative extension service costs, and any other costs.

**Total Costs:** \$2.1 billion per year for the first ten years, \$500 million for years 11-25, for a total of \$28.5 billion.

- Annual payments to tobacco farmers set at \$1.65 billion.
- Economic development grants set at \$375 million less administrative costs for first ten years.
- Assistance for dislocated workers set at \$25 million annually for ten years.

### **Secretary Glickman's Trip to Kentucky**

Last Friday, on April 3, Secretary Glickman and Tom Freedman traveled to Lexington, Kentucky to attend a Farm Forum at Gentry Tobacco Warehouse with 600 to 700 farmers, government officials, and agribusiness leaders. The farmers were generally supportive of the Administration. Their main concerns were that the tobacco program be kept in place and that small farmers not be adversely affected.

### **Attachments**

- Background on General State of the Tobacco Industry (prepared by USDA)
- Background on Farmer Portion of the McCain Legislation (prepared by USDA)
- Highlights of Kentucky Tobacco Farmer Survey from February 10-19, 1998 (Campaign for Tobacco-Free Kids and the Kentucky Health and Agriculture Forum)
- Maps showing the distribution of tobacco production in Kentucky
- Regional Press Clips from Secretary Glickman's Trip to Kentucky

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 7-APR-1998 18:55:33.00

SUBJECT: The President's Trip to KY

TO: Amy W. Tobe ( CN=Amy W. Tobe/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Jon P. Jennings ( CN=Jon P. Jennings/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Cecily C. Williams ( CN=Cecily C. Williams/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

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

READ:UNKNOWN

TO: Christopher F. Walker ( CN=Christopher F. Walker/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

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

READ:UNKNOWN

TO: Beth A. Viola ( CN=Beth A. Viola/OU=CEQ/O=EOP @ EOP [ CEQ ] )

READ:UNKNOWN

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

READ:UNKNOWN

TO: Marjorie Tarmey ( CN=Marjorie Tarmey/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: Darby E. Stott ( CN=Darby E. Stott/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Craig T. Smith ( CN=Craig T. Smith/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Joshua Silverman ( CN=Joshua Silverman/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Laura D. Schwartz ( CN=Laura D. Schwartz/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

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

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

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

TO: Christopher J. Lavery ( CN=Christopher J. Lavery/OU=WHO/O=EOP @ EOP [ WHO ] )  
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TO: Karin Kullman ( CN=Karin Kullman/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

TO: Cynthia M. Jasso-Rotunno ( CN=Cynthia M. Jasso-Rotunno/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Russell W. Horwitz ( CN=Russell W. Horwitz/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

TO: Nicholas R. Baldick ( CN=Nicholas R. Baldick/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

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

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

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

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

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

TO: Dorian V. Weaver ( CN=Dorian V. Weaver/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

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

TO: Michael V. Terrell ( CN=Michael V. Terrell/OU=CEQ/O=EOP @ EOP [ CEQ ] )  
READ:UNKNOWN

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

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

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

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

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

TO: Dan K. Rosenthal ( CN=Dan K. Rosenthal/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Sarah J. Reber ( CN=Sarah J. Reber/OU=CEA/O=EOP @ EOP [ CEA ] )  
READ:UNKNOWN

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

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

TO: Mary Morrison ( CN=Mary Morrison/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

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

TO: Megan C. Moloney ( CN=Megan C. Moloney/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

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

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

TO: Kirk T. Hanlin ( CN=Kirk T. Hanlin/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

TO: Nancy V. Hernreich ( CN=Nancy V. Hernreich/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

TO: Shelley N. Fidler ( CN=Shelley N. Fidler/OU=CEQ/O=EOP @ EOP [ CEQ ] )  
READ:UNKNOWN

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

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

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

TO: Daniel K. Chang ( CN=Daniel K. Chang/OU=CEA/O=EOP @ EOP [ CEA ] )  
READ:UNKNOWN

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

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

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

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

TO: Lori L. Anderson ( CN=Lori L. Anderson/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TEXT:

On Thursday, April 9, 1998, the President will travel to Northern Kentucky to participate in a round table discussion on tobacco and deliver remarks at a local high school.

Deadlines for the President's trip book are as follows:

Background Memos: DUE WED., APRIL 8, AT 6:00 P.M.

- Political memo
- CEQ Hot Issues
- Cabinet Affairs Hot Issues
- Accomplishments
- Economic One-Pager

Event Memos: DUE WED., APRIL 8, AT 6:00 P.M.

- Round Table Discussion
- Remarks at High School

Please call or e-mail me if you have any questions. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 7-APR-1998 19:03:49.00

SUBJECT: H1B

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Elena,

I just received a message from Earl Gohl at the Labor Department. This afternoon, the Labor Department was asked by the Immigration Subcommittee of the House Judiciary Committee (Lamar Smith's committee) to testify on April 21st on H1B visas. According to Earl, they (unclear whether Dem. or Rep.) intend to introduce an H1B bill before then. This bill will include what Earl calls "our two labor protections." I assume that he means the H1B reforms of no lay-off and recruit and retain. He is not sure what else from Kennedy it will include.

I have put in a call to Peter and to Earl to follow up.

Julie

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jason S. Goldberg ( CN=Jason S. Goldberg/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 7-APR-1998 19:16:41.00

SUBJECT: TIME CHANGE: Small Tobacco Mtg. Wednesday

TO: Demond T. Martin ( CN=Demond T. Martin/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

TEXT:

Will be at 5pm instead of 4pm in Erskine's office.

Sorry about the last minute change...it was due to POTUS conflict.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-APR-1998 00:24:33.00

SUBJECT: Draft announcement for President's trip to Kentucky

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

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

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

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

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

TEXT:

Here is a draft announcement.===== ATTACHMENT 1 =====  
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D57]MAIL483220797.026 to ASCII,  
The following is a HEX DUMP:

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**THE PRESIDENT MEETS WITH KENTUCKY  
TOBACCO FARMERS AND CALLS  
FOR PASSAGE OF COMPREHENSIVE  
TOBACCO LEGISLATION**

**April 9, 1998**

**Today, the President traveled to Carrollton, Kentucky to meet with tobacco farmers and to address students at Carroll County High School. The President's trip highlights his commitment to protecting farmers and reducing youth smoking, which were two of the five key elements of the bipartisan comprehensive tobacco legislation the President has called on Congress to pass this year.**

**Roundtable with Tobacco Farmers and Members of the Farming Community**

**The President held a roundtable discussion in the Kentuckiana Tobacco Warehouse with tobacco farmers and members of the community, including a student and tobacco warehouse owner. The panel also included Rod Kuegel, the President of the Burley Tobacco Growers Cooperative -- an organization that represents 150,000 tobacco farm families in five states -- and Bill Sprague, the President of the Kentucky Farm Bureau -- the largest farming organization in the state. This roundtable provided an opportunity for the President to listen to the concerns of farmers and the community regarding comprehensive tobacco legislation.**

**The President said that legislation proposed by Senator Ford, which is included in Senator McCain's comprehensive tobacco bill, satisfies his principle of protecting farmers and their communities. The legislation continues a production control system for tobacco, gives farmers the option of buying out of the program, and provides for economic development grants for rural communities.**

**Addressing Students at Carroll County High School**

**The President also addressed approximately 2200 students and adults at the Carroll County High School where he emphasized his commitment to reducing youth smoking. The President was joined by Senator Ford, Governor Patton, and Agriculture Secretary Glickman. The President urged Congress to act now to pass comprehensive tobacco legislation. There are as few as 70 working days left before this Congress adjourns. On every one of those days, 3,000 children will become regular smokers, and 1,000 adults will die from smoking. To prevent this harm, Congress must pass comprehensive, bipartisan legislation which raises the price of cigarettes by up to \$1.50 a pack over the next ten years, expressly confirms the FDA authority to regulate tobacco products, gets tobacco companies out of the business of marketing to children, furthers public health research and goals, and protects tobacco farmers and their communities.**

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jason S. Goldberg ( CN=Jason S. Goldberg/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 8-APR-1998 09:47:20.00

SUBJECT: ANOTHER TIME CHANGE: Small Tobacco Mtg. Wednesday

TO: Demond T. Martin ( CN=Demond T. Martin/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

Records Management ( Records Management @ EOP [ UNKNOWN ] )  
READ:UNKNOWN

TEXT:  
Will be at 5:30 pm

...another POTUS conflict.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Michael Cohen ( CN=Michael Cohen/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME: 8-APR-1998 10:42:03.00

SUBJECT: Unz memo

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

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

TEXT:  
Here it is.

For some reason, I haven't been able to get this draft to include page numbers. Laura, can you help?===== ATTACHMENT 1 =====  
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:  
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The following is a HEX DUMP:

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April 8, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: SECRETARY RILEY  
BRUCE REED

SUBJECT: California Proposition 227 (Unz Initiative) to End Bilingual Education

On June 2, California voters will consider Proposition 227, otherwise known as the Unz Initiative, which proposes to eliminate virtually all bilingual education. This is California's third potentially divisive race-related initiative in four years, following on the heels of Proposition 187, which barred public benefits for illegal immigrants, and Proposition 209, which ended affirmative action.

Polls show that the initiative is popular and is likely to pass, although a strong opposition campaign could make this election close. Many Latino voters currently favor the initiative, although the polls show that Latino support has declined considerably as voters become more familiar with the details of the proposal. Latino activists are strongly opposed to Unz, and are looking to the White House to support their efforts to defeat it.

Over the past several months DPC and Education Department staff worked with Maria Echaveste, Mickey Ibarra, Karen Skelton, and Janet Murguia to study the Unz Initiative, including extensive outreach to both opponents and supporters in California, in the Congress and among the advocacy community. Despite legitimate concerns over the effectiveness of some bilingual education programs, your advisors strongly believe that the Unz initiative is bad education policy and will harm students who need help the most.

We recommend that you publicly oppose the Unz Initiative because it deprives local educators of the ability to make educationally sound choices about how to meet the needs of limited English proficient children they serve and almost certainly will result in widespread violations of federal civil rights law. Your opposition to Unz should be coupled with a statement of the principles you support for strengthening programs to help Limited English Proficient students become proficient in English.

**I. The Unz Initiative and Bilingual Education in California**

**A. Overview of the Unz Initiative**

This initiative, authored and backed by Silicon Valley millionaire Ron Unz, is designed to

end all bilingual education programs in California. More specifically, it would:

- Require that all public school instruction be conducted in English.
- Permit this requirement to be waived only if parents or guardians can show that the child already knows English, has special needs, or would learn English faster through an alternative instructional technique.
- Provide initial placement for Limited English Proficient (LEP) students in "sheltered English immersion" programs for a period normally not to exceed one year. Instruction in these programs would be conducted in English, with some accommodations in the curriculum to take into account the limited English language skills of the students.
- Appropriate \$50 million per year over 10 years to fund adult education programs designed to teach English to LEP adults who in turn pledge to provide English language tutoring to LEP students.
- Make teachers, administrators and school board members subject to suits and personally liable for failure to implement the provisions of the initiative.

Unz and other backers of this initiative regard the existing system of bilingual education in the state as a complete failure. They argue that because bilingual education relies so heavily on use of the students' native language and only slowly introduces English, the approach delays or prevents, rather than promotes, the acquisition of English. Further, they point out that although California's bilingual education law expired a decade ago, the legislature has been unable to enact legislation to reform a broken program. This initiative, they argue, will break the legislative impasse and dramatically change bilingual education policy for the better.

## **B. Bilingual Education in California**

**Demographics.** There are approximately 1.3 million Limited English Proficient (LEP) students in California, approximately one quarter of California's K-12 students. This number has nearly doubled in less than a decade, and represents some 43% of the national total. Seventy nine percent of California's LEP students are native Spanish speakers. Hispanics have a 50% dropout rate, and by most indicators their academic performance lags behind most other population groups in the state.

**Educational Services.** LEP students receive a wide variety of services intended to help them learn English and academic subjects. In 1997, only about 30% received what is conventionally considered bilingual education -- programs which make significant use of the student's primary language to teach academics while phasing in ever greater amounts of English language instruction. More than half participate in specially designed instructional programs that help students learn English through a combination of approaches such as direct instruction in grammar, vocabulary and communications, while teaching other subjects in a way designed to be accessible to LEP students. (The Unz Initiative would eliminate these programs as well as conventional bilingual programs.) Approximately 16% of all LEP students are not receiving any language instruction services at all.

**California Legal Framework.** The legal framework for providing services to LEP students in California is murky. California's Bilingual Education Act sunsetted in 1987, but the State Board of Education regulations implementing the act have remained in effect. Under this framework, school districts are required to help students become fluent in English and competent in other academic subjects, and are given a significant amount of flexibility in determining how to achieve these goals. Neither bilingual education nor any other specific approach to teaching LEP students is required.

There have been a number of unsuccessful attempts in the past decade to enact new legislation, but bilingual education reformers and advocates have been unable to agree on an approach. There has been a fresh attempt over the past month to craft compromise legislation, partly to take the steam out of Unz and to give Unz opponents something to support. This effort, however, is likely to end in failure.

Early in March the State Board of Education took the first step toward eliminating the state bilingual education regulations. This process should be completed shortly before the vote on Unz. The effect of this action will be to eliminate any state requirement for the provision of specific services to LEP students, and to give local school districts even greater flexibility in this area.

## **II. Political Context**

The Unz initiative is currently the most serious threat to bilingual education, but it is not likely to be the last. Earlier this year Speaker Gingrich proposed eliminating bilingual education, and some conservative education experts (e.g., Diane Ravitch) have also called for its elimination. Last week, Rep. DeLay introduced a bill that would eliminate the federal bilingual education program, and House Republicans have included a \$75 million rescission of FY98 funding for bilingual education in the emergency supplemental bill. Especially if Unz passes, we are likely to see energized opposition to the federal program, and increased opposition in other states and localities.

**The Unz initiative presents a political dilemma in California.** If we oppose it, we risk alienating a majority of California Anglo voters. If we fail to oppose it, we risk alienating a vocal and increasingly influential group of Latino leaders, and possibly Latino voters.

Current polls show that a large majority of California Anglo voters support Unz. For Anglos, bilingual education may become a hot button issue similar to immigrant services and affirmative action. In contrast, Latino voters are split on the issue. While many continue to support Unz largely out of frustration at the public schools' failure to help their children, polls show that Latino support is eroding as they become more aware of the particulars of the initiative. And the polls tended to underestimate Latino opposition to Prop. 187 and Prop. 209.

Latino activists and elected officials oppose Unz. To some of the Latino leaders, Unz is

a litmus issue, like Propositions 187 and 209. Latino leaders are looking to the White House to become actively involved in the opposition to Unz, and are fearful that we will choose to sit on the sidelines.

**More organizations and elected officials are taking positions on Unz.** The California education community -- including the California Teachers Association and the California School Boards Association -- is strongly opposed to Unz. Key Democratic officeholders (including Sen. Boxer, Rep. Becerra and most Democrats in the California delegation, State Superintendent Delaine Eastin, and Speaker Villaraigosa) have also announced their opposition to the Unz initiative. All three Democratic gubernatorial candidates have come out against Unz.

Sen. Feinstein has not taken a public stance yet, though she appears likely to support Unz. A list of organizations, elected officials, and other leaders that have taken positions on Unz is attached.

The Republican state party has supported Unz, though many Republican officials, including Gov. Wilson, have not yet taken a position. Dan Lungren has not taken a position yet, but has recently said that the recent action by the State Board of Education has eliminated the need for Unz. There is always a chance that White House opposition to Unz could polarize the situation and push Gov. Wilson and other Republicans to support Unz, but at least some Republican leaders are afraid to support another initiative viewed as anti-Hispanic.

**The political dilemma can be resolved with a "Mend it / Don't End it" response.** We believe the best approach to this issue is to strike a middle ground by admitting that bilingual education needs mending, but asserting that Unz is not the way to do it. More specifically, we can:

- Start by reiterating the overriding importance of helping every child become proficient in English;
- Oppose Unz on the merits because it is too extreme;
- Remind voters what we are for, including both our overall approach to strengthening public education and our Hispanic initiative;
- Articulate the fundamental principles that you believe should be used by local communities to strengthen their efforts to educate LEP students. These principles include helping children become proficient in English as quickly as possible, holding schools accountable for results, providing local flexibility, and emphasizing quality in any approach used.

### **III. Specific Recommendations**

#### **I. Oppose Unz Initiative on educational and legal grounds.**

**Educational.** While evaluations of bilingual education in California and elsewhere have identified some promising efforts, few believe that the services now provided to LEP

students are effective on a large scale basis. In many cases, shortages of qualified teachers and poor implementation have limited the effectiveness of existing programs. However, these bilingual education programs should be "mended, not ended." A one-size-fits-all State prescription for how to educate limited English proficient children and demanding that it be done within one year will, in our view, be counter-productive to achieving the goal of helping LEP students learn English, reach high standards, and participate effectively in classrooms where English is the language of instruction. Experience and research, including a 1997 report of the National Academy of Sciences, indicate that no one approach is the answer for all limited English proficient children.

Rather -- whether the approach is bilingual education, English as a second language, structured immersion, or some variation or hybrid of them -- the success of programs turns on the quality and commitment of the school and teacher. The Unz Initiative is likely to impair chances for success by limiting the discretion of schools and teachers to determine what works best for their LEP students. In fact, the Unz Initiative is an extreme form of overregulation that prevents teachers and parents from exercising common sense and professional judgment of how to serve individual children. Exceptions can be made only by bureaucrats far removed from the classroom, and personal liability of teachers increases the prospect of court intrusions in educational matters to new and alarming levels.

A National Academy of Sciences study released March 18 shows that LEP children with no English proficiency are best taught to read English by first being taught reading in their native language, if teachers and instructional materials in their native language are available. Thus, while a structured English immersion approach may be effective for some limited English proficient children, it is likely to be ineffective for many others. In addition, our experience in administering the Bilingual Education Act and in reviewing programs for possible violations of Title VI of the Civil Rights Act indicates that one year of special instruction -- whether in Bilingual Education or an English immersion approach -- rarely is sufficient to enable a child who starts the program with almost no proficiency in English to become proficient enough to participate in regular classes.

**Legal.** Based on the educational problems described above, the Unz Initiative implicates federal civil rights laws. In the seminal 1974 case of Lau v. Nichols, the Supreme Court interpreted Title VI of the Civil Rights Act to require school districts to take steps to ensure that national origin minority students with limited English proficiency can effectively participate in the regular educational program. Similarly, the Equal Educational Opportunity Act, enacted in 1974, requires public educational agencies to take appropriate action to overcome language barriers that impede student participation in the instructional programs. Neither Lau nor the subsequent cases addressing Title VI or the Equal Educational Opportunity Act mandate a particular approach to meeting these needs, but they require that sound educational approaches be implemented and evaluated.

Assuming that some educational experts will vouch for the soundness of the sheltered

English immersion approach mandated by the Unz Initiative, we do not believe that a legal challenge asserting that the Unz Initiative on its face violates Title VI or the Equal Educational Opportunity Act would succeed. However, the Unz Initiative is certain to cause widespread violations of Title VI and the Equal Educational Opportunity Act if it is interpreted and applied in accordance with its intent to eliminate the choices of local educators when providing the appropriate instruction for limited English proficient students. Realistically, the only way that widespread violations will be avoided is if the State or local educational agencies broadly use loopholes in the Proposition to extend services well beyond a year and to provide bilingual education for students who need it.

It is evident that the Unz Initiative inevitably will create legal confrontations between California agencies and this Department, as well as the Department of Justice, over violations of civil rights laws and will divert resources and attention that should be focused on educating children to investigations and litigation.

**Recommendation:** For these reasons, we recommend that the Administration publicly oppose the Unz Initiative. Taking a position soon will allow us to help frame the debate and set a constructive tone, rather than get drawn into an already inflammatory debate. An immediate announcement will also allay concerns in the advocacy community that we may sit this battle out until it is too late to have an impact on the outcome. Neither you nor the Vice President are scheduled to be in California in the immediate future. Therefore, we believe that Secretary Riley should make the initial announcement of the Administration's position in California within the next week to ten days.

We also believe that you should use your visit to California in early May to personally make the case against the Unz Initiative. We will also work with the Vice President's office to create an appropriate opportunity for him to express his opposition to Unz.

\_\_\_\_\_ Agree    \_\_\_\_\_ Disagree    \_\_\_\_\_ Discuss Further

**2. Couple opposition to Unz with a clear statement of how local school districts can strengthen education for LEP students.**

In accord with our recommendation for a “mend, don’t end” approach to bilingual education, we believe that opposition to Unz should be coupled with a strong statement recognizing the importance of helping LEP students learn English and succeed, and a set of principles that should guide local efforts to strengthen rather than end these programs. The intent here is to underscore that while there is a place for bilingual education (and other ways to help LEP students become proficient in English), bilingual education programs in particular and the schools that serve LEP students must do a better job.

We seriously considered but rejected the idea of underscoring your commitment to

improve bilingual education by also proposing statutory changes to the federal Bilingual Education Program. After consultation with members of the California Congressional delegation, the Hispanic Caucus and others, we concluded that this step would be premature since Congress is unlikely to pass or even consider your proposals until next year, when the bilingual education is scheduled for reauthorization. An Administration proposal now would fuel other Congressional proposals to dramatically alter or eliminate bilingual education. Further, proposing changes to the federal program now would also place members of the California Congressional delegation in a difficult position, because they would be forced to take a position on both the Unz Initiative and your legislative proposal.

The approach to improving bilingual education proposed below will be further developed into specific legislative proposals in the coming months, as the Education Department prepares for the reauthorization of the Elementary and Secondary Education Act. Specifically, we recommend the following principles:

**Set a goal for school districts to help LEP students learn English within 3 years.**

All sides of this debate--including particularly parents of Hispanic and other LEP students--want children to learn English as rapidly as possible. However, bilingual education programs are often portrayed as prolonging rather than speeding the process of learning English, and are often perceived to be open-ended rather than transitional programs. The best available evidence suggests that it currently takes LEP students 4-5 years to become proficient in English. Currently, few school districts establish clear time lines or goals for LEP students to learn English.

Challenging school districts to set and meet a clear goal of helping LEP students become proficient in English within 3 years will clearly ensure that your opposition to Unz is not seen as an endorsement of the status quo. Setting a clear goal is the first step in reducing the length of time it takes for students to master English. It will send a clear message to teachers and administrators to adopt curriculum and instructional strategies that are designed to help students acquire English proficiency as rapidly as possible. In this context, you should also urge school districts to set the same academic standards and expectations for LEP students as all other students are expected to meet; notify parents of every LEP student of these goals when the student is first enrolled; assess student progress in English and toward meeting standards in other academic subjects annually; identify early and provide extra help to students who are not making progress.

This proposal will be very unpopular with the Hispanic Caucus and the bilingual advocacy community. They will argue that there is no clear research base to establish a 3-year time frame, that individuals vary in how long they need to master English, and that pushing students to learn English early will slow down their ability to master other academic subjects. They will also argue that advocating a 3-year time frame--or any other arbitrary time limit--plays into the hands of Unz and his supporters and weakens the ability of Unz opponents to make the case against the 1-year arbitrary time limit in his proposal. Further, they and many educators

will argue that if it is necessary to set time lines for learning English, local educators and communities ought to take responsibility for determining the appropriate length of time.

We believe that these concerns can be reduced somewhat by making clear that you are calling for a goal rather than a strict time limit, by emphasizing accountability for meeting the goal rests primarily on local schools, and by not proposing to end language services to students who have not yet mastered English within 3 years.

**Local school districts must be accountable for performance and results.** School districts must be held accountable for helping students become proficient in English as rapidly as possible. They should report publicly how well they are meeting the timelines they have established. They should test students periodically for English proficiency (as well as achievement in other subjects) to determine if they are making adequate progress, and to provide additional services or take other corrective actions as appropriate when students are not making adequate progress. School districts should evaluate their bilingual education programs regularly as well. If a program is not helping its students progress rapidly enough, the school district should strengthen it, or use another approach research shows will work.

**There must be local flexibility.** As discussed above, no one-size-fits-all prescription for how to educate limited English proficient children will work. Local schools must have the flexibility to design programs that meet its particular needs, mix of students and resources. So long as the goal is clear--that students learn English as rapidly as possible--and there is accountability for results, parents and educators should be free to work together to fashion programs that work for them.

**The focus must be on strengthening quality, regardless of approach.** The research on instruction for LEP students does not identify any approach (e.g. bilingual education, English immersion, English as a Second Language, or dual-language immersion) as more effective than others. Rather, it suggests that effective programs have well-prepared teachers who know how to teach reading and who are knowledgeable about second-language acquisition; provide students with a challenging curriculum and high academic standards; and regularly assess student progress and make adjustments in the instructional program accordingly. In short, if LEP students are to learn English and succeed in school, they must be in schools that work for all students--schools with high standards, good teachers, smaller classes, challenging curriculum and accountability for results. Because of this, any discussion of the steps required to strengthen local quality provides an opportunity to discuss your overall agenda for strengthening public schools

\_\_\_\_\_ Agree    \_\_\_\_\_ Disagree    \_\_\_\_\_ Discuss Further

**Elected Officials, Associations, Activists are Taking positions on Unz:**

**Oppose Unz:**

Senator Barbara Boxer  
Lt. Gov. Grey Davis  
Congressman Xavier Becerra  
Congressman Cal Dooley  
Congressman Bob Filner  
Congressman Lucile Roybal-Allard  
Congresswoman Zoe Lofgren  
Congresswoman Ellen Tauscher  
Congressman Vic Fazio  
Congressman Marty Martinez  
Delaine Eastin, Superintendent of Public Instruction  
Assemblyman Cruz Bustamante (former Speaker)  
Speaker Antonio Villaraigosa  
Senator President John Burton  
Supervisor Gloria Molina  
CTA  
MALDEF  
Republican Assemblyman Bill Leonard  
Republican Assemblyman Rod Pacheco (only R Latino Assemblyman)  
CABE

**Support Unz:**

Ron Unz  
Gloria Matta Tuchman  
Jaime Escalante  
Fernando Vega  
Mayor Richard Riordan  
Darrell Issa, Republican Senate Candidate opposing Barbara Boxer

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Thomas L. Freedman ( CN=Thomas L. Freedman/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME: 8-APR-1998 11:01:31.00

SUBJECT: Draft Q/A's.

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

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

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

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

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

TEXT:

Part I. is the Administration's position on tobacco farm issues -- an answer to Lugar's op-ed is included, I think the answer is as far as we go.

Part II. Are general tobacco background questions -- how much KY grows, what's in Ford's bill, etc.

Part III. is the set of Q/A's on the legislation generally that C.R. passed on that you have already vetted. ===== ATTACHMENT 1 =====  
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

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The following is a HEX DUMP:

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**(4/8 DRAFT)**  
**TOBACCO Q&A**  
**PRESIDENT'S KENTUCKY TRIP**  
**April 9, 1998**

**I. ADMINISTRATION POSITIONS ON TOBACCO FARMER ISSUES**

**Q. Why is the President going to Kentucky?**

A. The President is going to Kentucky, the heart of burley tobacco country, to discuss the need for comprehensive tobacco legislation that reduces youth smoking but provides for the future of family farming and rural communities. In his statement last September, the President said that protecting farmers and their communities was one of the key five principles that must be included in any comprehensive tobacco legislation he would be willing to sign. The President is going to Kentucky to discuss the impact of tobacco legislation directly with farmers and effected communities, and urge passage of legislation that meets the needs of reducing teen smoking and protects farmers and their communities. The President will say that legislation authored by Senator Ford and introduced as part of the McCain bill meets the goal of protecting farmers and their communities.

**Q. What is the President's position on programs for tobacco farmers?**

A: The President made protecting farmers and their communities one of the five key principles that must be included in any comprehensive tobacco legislation. Senator Ford's bill, which provides for compensation for losses to quota owners and producers, and makes provision for losses to rural communities where tobacco is grown, meets the President's goal of protecting farmers. The President is encouraged that both the interests of flue-cured and burley farmers are included in the proposal, and hopes that all farmers will continue working together to ensure that legislation is passed this year.

**Q. Aren't the goals of reducing youth smoking and protecting tobacco farmers contradictory?**

A: No. The President does not want the tobacco companies to go out of business, only out of the business of selling to children. The tobacco farmers have played by the rules, and should be protected in any legislation that passes. The President believes that we can reduce youth smoking and protect rural communities if we all work together to urge Congress to pass bipartisan comprehensive tobacco legislation this year.

**Q. Senator Lugar recently suggested in an op-ed that the tobacco program should be phased out. Does the Administration agree?**

A. The Administration feels that any legislation has to be evaluated in terms of how well it meets the President's five principles -- including reducing youth smoking and protecting farmers and their communities. Advocates of a free market for tobacco growers will need to demonstrate that it is consistent with these principles. Many health groups have argued that simply ending the tobacco program may actually increase the amount of tobacco that is grown, decrease the cost of tobacco, and provide a windfall for cigarette companies. In addition, representatives of family farms have suggested that ending the tobacco program would have extremely negative economic effects on them and their communities. The President went to Kentucky, in part, to discuss the various legislative options with those directly effected by tobacco legislation and hear their opinions first-hand

## **II. BACKGROUND QUESTIONS RE: TOBACCO FARMERS**

**Q. How important is tobacco to Kentucky producers and the overall economy?**

A. Including sales from fire-cured and dark air-cured tobacco, Kentucky tobacco producers received over \$800 million from the 1997 crop. Tobacco sales represent over 40 percent of crop sales receipts and over 20 percent of all agricultural sales in Kentucky.

In 1997, over 600 million pounds of burley tobacco was produced in the United States - 70 percent in Kentucky.

**Q. Who will be affected by a settlement?**

A. The tobacco settlement will have a wide-reaching impact on all segments of the tobacco industry, but a disproportionate effect on small and minority tobacco quota owners and producers. Of the 338,000 individual quotas, about 66 percent are considered small farm operations. Five percent of all quotas are owned by minorities, the majority of which are small producers.

**Q. Why is tobacco so important to small farmers?**

A. Tobacco is a high value crop that generates gross receipts of \$4,000 to \$5,000 per acre. Profits from 1 acre of tobacco are equivalent to between 15 and 20 acres of corn or soybeans. On small farms in Kentucky, with an average of 22 acres of harvested cropland in 1992, tobacco is vital to the economic survival of farmers. (source: 1992 Ag Census)

**Q. How much tobacco is grown in the United States?**

A. In 1997, tobacco production totaled 1.7 billion pounds with a value of over \$3 billion, the highest production and crop receipts since 1992. Sales of tobacco products reached a record \$50 billion in 1997.

**Q. How does the tobacco program work?**

A. Since the 1930s, in order to grow tobacco, a farmer must have a quota. The quota allows the farmer to grow a certain amount of tobacco for that year. Thus, the amount of tobacco grown in the United States is controlled by law. In addition, the price of tobacco is set statutorily. If a private company chooses not to purchase tobacco at or above the statutory minimum price, the regional cooperative of tobacco farmers will purchase the tobacco and store it, putting the tobacco back on the market when the price is more favorable.

**Q. What are the provisions of the Ford bill which is included in the McCain legislation?**

**A: Senators Ford, Frist, and Hollings, the three members of the Senate Commerce Committee from tobacco-growing states, joined together to include a farmer provision in the McCain tobacco legislation. While maintaining a production control system for all tobacco farmers, this package sets up somewhat different systems for burley and flue-cured tobacco. For burley tobacco (grown mostly in Kentucky), the package includes an optional buy-out for quota holders at \$8 per pound, and retains the quota system for those who do not take the buyout, but provides payments to both remaining quota holders, lessees, and tenants to the extent that base quota declines. For flue-cured tobacco, the plan provides for a mandatory buyout of existing quota holders, and replaces the quota system with a permit system that gives the new permits at no cost to active producers, regardless of whether they previously held a quota. This transferring of quotas from inactive quota holders to actual producers is intended to make it possible for active farmers to sell tobacco without incurring the cost of buying or renting quota.**

**The provision authored by Senator Ford and included in McCain's legislation also provides approximately \$500 million for assistance to tobacco-producing communities. The package costs \$2.1 billion per year for the first ten years and \$500 million for years 11-25 for a total of \$28.5 billion. For the most part, tobacco farm leaders have been pleased with the proposal included in the McCain legislation.**

## **II. GENERAL BACKGROUND ON TOBACCO LEGISLATION**

**Q: Has the President endorsed the McCain bill?**

**A:** The President believes that this bill represents a dramatic step forward. It would raise the price of cigarettes, give the FDA full authority to regulate tobacco products, ban advertising aimed at children, and protect tobacco farmers. But he also said we still have work to do on this legislation. Above all, we need to put in place tough penalties that will cost the tobacco industry if it continues to sell cigarettes to young people. We're not trying to put the tobacco companies out of business; we want to put them out of the business of selling cigarettes to kids. This week's progress in the Senate shows we have real momentum in both parties to do just that.

**Q:** **The President says we need stronger penalties on companies that continue to sell to our children. What does he mean by that?**

**A:** The McCain bill's penalty provisions are deficient for two reasons. First, the bill has a cap of \$3.5 billion per year on industry-wide penalties, no matter how much the industry misses youth targets by. Second, the McCain bill contains no penalties on individual companies for failing to meet youth smoking targets. Reducing youth smoking is our bottom line, and we must make it each and every company's bottom line.

**Q:** **Does the Administration have concerns about provisions of the McCain bill besides the penalties?**

**A:** We have serious concerns about this bill's provision which would allow individual States to "opt out" of the national smoke-free environment policy. This provision creates a patchwork system in which states could decide to adopt weaker laws or decide against taking any action at all, leaving people with little or no protection from the hazards of environmental tobacco smoke. In addition, there is no need to exempt the tobacco industry from antitrust rules in order to reduce youth smoking. We strongly oppose any exemptions that would allow price fixing agreements. Third, we believe it is critical that tobacco legislation fund efforts to promote public health and assist children.

**Q:** **What does the President want the tobacco funds to be spent on?**

**A:** The President strongly believes that tobacco revenues should go toward protecting public health and assisting children. His budget provides for funds for anti-smoking programs that will help us meet the goals of reducing youth smoking rates and for a dramatic expansion of health-related research to help us cure smoking-related disease. Finally, in recognition of the states' role in bringing suit against tobacco companies, the President's budget provides for a substantial amount of money to revert to the states. Some of this money can be used for any purpose. Other funds must be used on state-administered programs to assist children (specifically, for child care, Medicaid child outreach, and class size reduction).

**Q:** **What is your view of the liability protections for the tobacco industry contained in Senator McCain's legislation?**

**A:** As we have said on many occasions, we would prefer comprehensive tobacco legislation without liability limits, but in the context of legislation that meets all of the President's principles and dramatically reduces youth smoking, reasonable limits on liability will not be a dealbreaker. Right now, we're going to focus on the aspects of the McCain legislation that we think fall short of what the President has demanded: particularly, on the penalties in the bill to reduce youth smoking. Until we get those right, we won't address liability protections.

**Q:** **The tobacco industry has said that it will not agree to national tobacco legislation that increases the price of a pack of cigarettes by \$1.10 over five years, as proposed by the President's budget and the McCain bill. Does that doom the President's proposal?**

**A:** No. We have always expected the tobacco companies to fight hard for their economic interests, but needless to say we will not always agree, nor we think will the US Congress. This price increase called for in the President's budget is necessary to meet his youth smoking targets, and he will continue to demand it. What the companies do is up to them, but we will not back off such necessary measures to reduce youth smoking.

**Q:** **What are the five principles that the President has said tobacco legislation must meet?**

**A:** President Clinton has said he will only support tobacco legislation that:

- Raises the price of cigarettes by up to \$1.10 a pack over 5 years and \$1.50 a pack over the next ten years, and imposes tough penalties on companies that continue to sell to kids;
- Affirms the FDA's full authority to regulate tobacco products;
- Gets companies out of the business of marketing and selling tobacco to minors;
- Promotes public health research and public health goals; and
- Protects our tobacco farmers and their communities.

**Q:** **How does the McCain bill compare to the Attorneys General proposed settlement and the President's proposal?**

**A:** See chart below.

### **Comparison of Tobacco Proposals**

April 7, 1998

	<b>Attorneys General</b>	<b>McCain</b>	<b>President</b>
<b>Substantial Price Increase</b>	No	Yes	Yes
<b>Strong Industry and Company Penalties</b>	No	No	Yes
<b>Full FDA Authority</b>	No	Yes	Yes
<b>Strong Advertising and Access Provisions</b>	Yes	Yes	Yes
<b>Protections of Tobacco Farmers</b>	No	Yes	Yes
<b>Comprehensive Plan to Use Tobacco Revenue to Protect Public Health and Assist Children</b>	Yes	No*	Yes
<b>Strong Environmental Tobacco Smoke Provision</b>	Yes	No	Yes
<b>Liability Protections for Industry:</b>			
1. Liability Cap	Yes	Yes	Only if bill meets President's public health principles.
2. Bar on Class Actions	Yes	No	Only if bill meets President's public health principles.
3. Bar on Punitive Damages	Yes	No	Only if bill meets President's public health principles.

\* Does not attempt to address most spending issues.

**Q: Is teen smoking going up or down?**

**On April 2, the Centers for Disease Control in Atlanta released a new study ("Tobacco Use Among High School Students -- United States, 1997") which found that**

cigarette smoking rates among high school students rose by nearly a third between 1991 and 1997, from 27.5 percent to 36.4 percent, with the sharpest increase among African American students. Cigarette smoking was highest among white students (40 percent), rising by 28 percent from 1991 (31 percent). While the level of cigarette smoking among African-American students was lower than for white students, the rate increased by 80 percent between 1991 and 1997 (from 12.6 percent to 22.7 percent). Overall, the study found that nearly half of male students and more than a third of female students used cigarettes, cigars, or smokeless tobacco during the previous month. This 1997 data was derived from a survey of over 16,000 students in grades 9-12.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-APR-1998 11:13:56.00

SUBJECT:

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

TEXT:

Call 65584 ASAP for Lindsey!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-APR-1998 11:31:18.00

SUBJECT: Today's tobacco Q&As--need immediate review

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

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

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

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

TEXT:

These are not for Kentucky -- they are for the speech the RJR CEO is giving today.===== ATTACHMENT 1 =====  
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D1]MAIL42035479J.026 to ASCII,  
The following is a HEX DUMP:

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11:00 am DRAFT

**Tobacco Q&As**  
**April 8, 1998**

**Q: What's your reaction to RJR Nabisco CEO Steven Goldstone's remarks today at the National Press Club?**

**A:** It is no surprise that the tobacco industry would protest the legislation moving through the Congress -- it is in their best interest to object to the bill now in order to prevent it from getting tougher on youth smoking. Why should we believe protests from an industry that won't admit that they marketed cigarettes to kids and still won't say cigarettes are addictive?

We still believe that the tobacco industry will have every incentive to agree to legislation in the end, so that they can end this shameful chapter in their history and start off on a new path. In any event, the industry does not have veto power over what we do, and we will not back off such necessary measures to reduce youth smoking.

**Q: Will this deal drive RJR and/or other tobacco companies into bankruptcy?**

**A:** No. We're not trying to put the tobacco companies out of business; we want to put them out of the business of selling cigarettes to kids. We've done some careful financial analysis of the McCain bill, and we do not believe that it will drive companies into bankruptcy. The tobacco industry has financial difficulties because because of its massive liability risk, and this deal certainly doesn't increase that risk. Stopping companies from selling cigarettes to kids will not put them out of business.

**Q: But don't you need industry cooperation to enact tobacco legislation?**

**A:** We would like the tobacco industry to willingly join us in this effort to reduce youth smoking. But we can make progress even if they refuse to join us. We still believe that the tobacco industry will have every incentive to agree to legislation in the end, so that they can end this shameful chapter in their history and start off on a new path. In any event, the industry does not have veto power over what we do, and we will not back off such necessary measures to reduce youth smoking.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-APR-1998 12:24:30.00

SUBJECT: FHA Anniversary Statement

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

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

TO: Jake Siewert ( CN=Jake Siewert/OU=OPD/O=EOP @ EOP [ OPD ] )  
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

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

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

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

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

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

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

Phillip Caplan ( CN=Phillip Caplan/OU=WHO/O=EOP [ WHO ] )  
READ:UNKNOWN

TEXT:

As most of you know, in this morning's senior staff meeting Podesta asked our office to coordinate a presidential statement for the 30th anniversary of the Fair Housing Act this Saturday (tell the kids to forget Passover and Easter, it's FHA weekend). There's not a whole lot of time between now and then, so, if you've not done so already, could you please deploy the considerable brain power of a crack NEC or DPC staffer to prepare a draft that we could send around internally on, say, Thursday afternoon? Please let me know who'll be working on it. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-APR-1998 12:30:49.00

SUBJECT: H1B -- legislative action

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Elena,

I spoke with Peter and Earl Grohl from Labor this morning. As I mentioned yesterday, Lamar Smith (Chair of the House Judiciary Subcommittee on Immigration) has asked the DOL to appear at a hearing on H1B visas on April 21st. According to Peter, Smith and Mel Watt (ranking member) are working on a bi-partisan bill that they will introduce soon after the hearing. According to Smith's staffer (George Fishman), they want to include the "recruit and retain" and "no lay-off" provisions, modeled after what is in the Kennedy bill. Fishman has asked Peter for a signal of what in Kennedy's bill is important to the Administration.

Smith's bill may also include a provision that would require any person entering under the family unification program to have a high school diploma. This is a whole other can of worms that we likely do not want to grapple with at the same time.

Peter has not had a conversation with Smith's staffer re: training. He plans to get with Gerry to have that conversation. However, Peter thinks that Kennedy may not include H1B reforms in his bill (compromising with Abraham), and thus our priority should be to ensure that there are H1B reforms included in the House bill, and then work out a compromise with the Sen. version later. Peter plans to speak again with Kennedy and Abraham to push for the reforms.

Julie

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-APR-1998 14:14:54.00

SUBJECT: Here's that simple chart should it be useful

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

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

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

TEXT:

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

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D92]MAIL41438579W.026 to ASCII,  
The following is a HEX DUMP:

FF575043500A0000010A0201000000020500000006E14000000020000A6CB738845E7B894E69373  
6AEB02F9039EC4A68306BC3DE957E76B60DF4C31B829757D193D9BF46BCC15DA5EB6EDF73FC98E

**Comparison of Tobacco Proposals**  
April 7, 1998

	<b>Attorneys General</b>	<b>McCain</b>	<b>President</b>
<b>Substantial Price Increase</b>	No	Yes	Yes
<b>Strong Industry and Company Penalties</b>	No	No	Yes
<b>Full FDA Authority</b>	No	Yes	Yes
<b>Strong Advertising and Access Provisions</b>	Yes	Yes	Yes
<b>Protections of Tobacco Farmers</b>	No	Yes	Yes
<b>Comprehensive Plan to Use Tobacco Revenue to Protect Public Health and Assist Children</b>	Yes	No*	Yes
<b>Strong Environmental Tobacco Smoke Provision</b>	Yes	No	Yes
<b>Liability Protections for Industry:</b>			
1. Liability Cap	Yes	Yes	Only if bill meets President's public health principles.
2. Bar on Class Actions	Yes	No	Only if bill meets President's public health principles.
3. Bar on Punitive Damages	Yes	No	Only if bill meets President's public health principles.

\* Does not attempt to address most spending issues.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Donna L. Geisbert ( CN=Donna L. Geisbert/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME: 8-APR-1998 15:09:15.00

SUBJECT: Weekly Tobacco Strategy Meeting

TO: DAILARD\_C ( DAILARD\_C @ A1 @ CD @ VAXGTWY [ UNKNOWN ] ) (OPD)  
READ:UNKNOWN

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

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

TO: Peter R. Orszag ( CN=Peter R. Orszag/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: Barbara D. Woolley ( CN=Barbara D. Woolley/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Donald H. Gips ( CN=Donald H. Gips/O=OVP @ OVP [ UNKNOWN ] )  
READ:UNKNOWN

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

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

TO: MARR\_C ( MARR\_C @ A1 @ CD @ VAXGTWY [ UNKNOWN ] ) (OPD)  
READ:UNKNOWN

TO: Charles F. Stone ( CN=Charles F. Stone/OU=CEA/O=EOP @ EOP [ CEA ] )  
READ:UNKNOWN

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

TO: Sherman G. Boone ( CN=Sherman G. Boone/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

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

TO: Toby Donenfeld ( CN=Toby Donenfeld/O=OVP @ OVP [ UNKNOWN ] )  
READ:UNKNOWN

TO: Jerold R. Mande ( CN=Jerold R. Mande/OU=OSTP/O=EOP @ EOP [ OSTP ] )  
READ:UNKNOWN

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

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

READ:UNKNOWN

CC: MURRAY\_MM ( MURRAY\_MM @ A1 @ CD @ VAXGTWY [ UNKNOWN ] ) (WHO)  
READ:UNKNOWN

CC: Satish Narayanan ( CN=Satish Narayanan/O=OVP @ OVP [ UNKNOWN ] )  
READ:UNKNOWN

CC: Dan J. Taylor ( CN=Dan J. Taylor/O=OVP @ OVP [ UNKNOWN ] )  
READ:UNKNOWN

CC: haverkamp\_jennifer ( haverkamp\_jennifer @ ustr.gov @ INET @ VAXGTWY [ UNKNOWN ] )  
READ:UNKNOWN

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

CC: Jill M. Pizzuto ( CN=Jill M. Pizzuto/OU=OMB/O=EOP @ EOP [ OMB ] )  
READ:UNKNOWN

TEXT:

We will be having the Weekly Tobacco Strategy Meeting tomorrow, April 9,  
at 2:45 in Room 211, OEOB.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Fred DuVal ( CN=Fred DuVal/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 8-APR-1998 15:28:05.00

SUBJECT: kentucky

TO: Craig T. Smith ( CN=Craig T. Smith/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

TO: Amy W. Tobe ( CN=Amy W. Tobe/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TO: Audrey T. Haynes ( CN=Audrey T. Haynes/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

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

TO: Rahm I. Emanuel ( CN=Rahm I. Emanuel/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TEXT:

According to the Governors office, Brown and Williamson has hired buses that will be bringing a couple hundred employees to protest the \$1.10 - \$1.50 increase. They will be stationed at the General Butler Reserve Park which is at the motorcade turns on to Route 227.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-APR-1998 16:03:39.00

SUBJECT:

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

TEXT:

FYI- Lowell is waiting outside your office to talk to you re: tomorrow's  
speech

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-APR-1998 16:31:26.00

SUBJECT: H1B Deputy's meeting -- Background paper

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

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

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

CC: Cecilia E. Rouse ( CN=Cecilia E. Rouse/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TEXT:

Elena/Sally:

Attached is the background paper for the Deputy's meeting on H1B visas.  
Please call with questions, etc. Thanks.

Julie & Ceci

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

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

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D79]MAIL418466797.026 to ASCII,  
The following is a HEX DUMP:

FF5750436A060000010A020100000002050000000264300000002000091F07C002FE21FBE84A39F  
FAC40B30883D2D749C691A92AE48B78E4A909D9B67363DAB41F4896C85D2591514056EBFB36BF9

MEMORANDUM TO ELENA KAGAN AND SALLY KATZEN

FROM: Julie Fernandes and Cecilia Rouse

DATE: March 29, 2010

RE: Background on H-1B Visa Reform

Though the Administration has endorsed a set of principles that should guide any legislation that proposes to increase the cap on the number of H-1B visas, we need to evaluate key components of possible legislative proposals and decide our priorities. This memo outlines aspects of the existing legislative proposals on which we need to focus.

Background

The H-1B visa program was designed to allow for the temporary admission of foreign “specialty workers” for employment in the United States. In its current form, it allows the admission of up to 65,000 non-immigrant workers each year. Each visa lasts for three years, and is renewable for another three. The program was designed to meet the short-term employment needs of employers seeking highly-skilled workers. Currently, H-1B visas are issued on a first come, first served basis.

Under current law, before obtaining a temporary foreign worker under the H-1B program, employers must attest that: (1) they will pay the prevailing wage; (2) notification has been provided to their employees and the representing union; (3) there is no strike or lock-out; and (4) the employment of H-1B non-immigrants will not adversely affect the working conditions of workers similarly employed. The Labor Department only has the authority to review these attestations for completeness and obvious inaccuracies.

Since 1993, the Administration has sought reforms to the H-1B visa program, including requiring employers to attest that they have and are taking timely and significant steps to recruit and retain U.S. workers in the jobs in which they seek to employ H-1B non-immigrants; prohibiting employers from laying-off a U.S. worker to replace them with a temporary foreign worker; and reducing the authorized length of stay from six to three years to better reflect the temporary nature of the presumed employment need. INS and Labor agree that these reforms would target H-1B usage to employers experiencing genuine skill shortages, thus relieving the pressure on the cap.

Industry is strongly opposed to these reforms. In general, they assert (1) that DOL’s occupational classifications do not reflect the breadth of occupations within the industry, thus causing a recruitment or no lay-off provision to be unworkable; (2) that they do not want the government to second-guess their hiring and firing decisions; and (3) that these reforms would be

equivalent to the labor certification requirement that exists in the permanent visa program, and thus would be slow and ineffective. Organized labor, however, supports these reforms, arguing they are needed to protect U.S. workers.

### Issues to Consider

#### 1. **What does “recruit and retain” mean?**

According to the Department of Labor, the Administration has never defined what precisely would satisfy the “recruit and retain” requirement. Industry opposes this provision, in part, because it is not clear exactly what would be required.

The Kennedy-Feinstein legislation includes a provision that would require employers to attest to having taken timely, significant, and effective steps to recruit and retain U.S. workers prior to obtaining an H-1B foreign worker, with compliance measured by comparison to “industry-wide standards.” However, it is unclear how this would work. For example, how would these “industry-wide standards” for recruitment and retention be identified? Also, should we endorse a process that simply identifies standards that reflect what industry is currently doing (therefore codifying the status quo) or should we ask industry to do more to recruit U.S. workers before being able to hire a temporary foreign worker? If we want them to do more, how do we define what we want them to do?

The “recruit and retain” provision of the now-defunct foreign nurses program (H-1A) set out several steps that an employer could take to recruit and retain U.S. workers, and then defined satisfaction of the statutory requirement as compliance with some subset of those. This method, though effective in the context of a single industry (where it is easier to define the universe of possibly acceptable recruitment methods), could prove unworkable for the H-1B program, given the diversity of industries that use it.

#### 2. **Occupational classification**

Industry objects to a proposal that would permit the Department of Labor to use “recruit and retain” or “no lay-off” provisions to limit industry’s employment choices based on occupational classifications established by the DOL. At the same time, industry has argued for broader occupational categories for the prevailing wage calculation since more general categories usually result in lower wage estimates.

Labor has agreed that it would not make sense to require employers to use existing occupational classifications to establish compliance with a “recruit and retain” or “no lay-off” provision. An alternative is to consider defining who needs to be recruited or who cannot be laid-off based on skill-level (e.g., the ability to program in java) or on the amount of additional training an incumbent or other U.S. worker would need to perform the job (e.g., someone who could program in java with six weeks training), rather than on occupational classification (e.g.,

computer programmer).

**3. Practicability of a no lay-off provision**

Industry also argues that a no lay-off provision would be difficult to administer, given the decentralized nature of employment decisions in large companies. They ask, for example, whether a firm that lays-off a worker in Chicago, but wants to hire one in Houston, would be considered to have “laid-off” the Chicago worker, and thus unable to hire an H-1B worker in Houston.

The Abraham bill includes a no lay-off provision that would not achieve our goals. His proposal would prohibit an employer from employing a temporary foreign worker “at the specific place of employment and in the specific employment opportunity from which a U.S. worker with substantially equivalent qualifications and experience in the specific employment opportunity has been laid-off.” This language makes every employee unique, and thus is likely unenforceable.

**4. The role of job contractors**

In 1995, the Administration endorsed a proposal that job contractors seeking to use the H-1B program would be precluded from placing H-1B workers at sites of customers that had not also attested to complying with the H-1B criteria. Given that the top ten users of the H-1B program are job contractors, we may want to consider this as part of our overall reform package.

**5. Reduced maximum stay from six to three years**

Under current law, the H-1B visa lasts for six years (it is a three year visa that is almost always renewed for an additional three years). The proposed reform would eliminate the possibility of renewal, thus creating a maximum stay of three years. In both 1993 and 1995, the Administration strongly supported this limitation as better comports with the “temporary” nature of the presumed employment need.

However, the Administration proposed this reform in the context of not increasing the cap on the annual number of H-1B visas. It would be somewhat incongruous to both increase the annual cap and effectively limit by half the number of H-1B visa holders in the country at any one time. Thus, if we were to endorse raising the annual cap (even temporarily), this increase should not be coupled with a proposed reform to limit the annual number of visas.

**6. Enhanced enforcement**

In addition to the above reforms to the H-1B program, the Labor Department has proposed that they be given greater authority and resources to ensure that employers comply with the standards for hiring temporary foreign workers under the H-1B program (either current or proposed).

Under current law, it is not clear that the Department of Labor has independent authority (i.e., where there has been no complaint) to initiate an investigation of an employer suspected of not substantively complying with the labor market attestations. The Kennedy-Feinstein proposal would give the Secretary independent authority to investigate (upon a finding of probable cause), subpoena authority, an ability to conduct random audits, and would increase the penalties for employers found in violation (from \$5,000 to \$10,000). These changes seem appropriate to ensure compliance with the objectives of the H-1B program. However, though each element of this enhanced enforcement is important, the subpoena authority and the ability to investigate without a complaint are the most critical.

The Abraham bill increases the penalty for willful violations of the H-1B program, but eliminates penalties for less than willful violations. In addition, the bill allows DOL to conduct random inspections of willful violators (for 5 years), but does not authorize additional money to do so. Also, under Abraham's bill, an employer could only be investigated for having violated the "no lay-off" provision if the employer were already being investigated for another violation. These reforms would weaken, rather than strengthen, the Secretary's enforcement authority.

#### **7. Prevailing wage**

Under current law, an employer must pay each H-1B non-immigrant the "higher of prevailing or actual wage paid to similarly-employed U.S. workers." The Kennedy-Feinstein bill would modify this requirement to include benefits and all other compensation when calculating the wage standard. However, according to the Department of Labor, they would not be able to calculate a reliable prevailing wage that includes non-wage compensation.

While the Abraham bill uses the current definition of wages, it would allow employers to use any published survey "which shall be considered correct and valid if the survey was conducted in accordance with generally accepted industry standards and the employer has maintained a copy of the survey information" to determine the prevailing wage. The requirement would permit the use of outdated wage data and would give DOL little control over the quality of the surveys used to determine the prevailing wage.

In the past, DOL has advocated for a prevailing wage calculation based on the applicable prevailing wage plus the same benefits and additional compensation provided to similarly employed workers of the employer.

#### **8. An application fee**

Currently, employers only pay a small processing fee when filing for an H-1B visa. The Kennedy-Feinstein bill proposes a fee of \$250 per H-1B visa application. An application fee is a straightforward way to require employers who use the H-1B program to directly contribute to more training for U.S. workers and to generate additional funds for enforcement. However, an

application fee will likely be perceived as a tax, and thus could be unpopular.

If we decide to push for the establishment of an application fee, we may want to increase it to \$500. First, the higher fee will generate more money for training. Second, as a tactical matter, if we begin negotiations at \$500 we may end up at \$250 (rather than beginning at \$250 and ending up at \$0). We should be careful, however, not to endorse a fee that would create such a disincentive to participation that it would effectively prevent the United States from meeting its treaty obligations (under the GATS) to permit 65,000 persons to enter annually under the H-1B program.

## 9. **Training**

In order to meet the short-term and long-term needs of industry, training should be geared towards incumbent workers as well as those who have yet to enter the workforce. In addition, there is widespread support among the agencies for programs that encourage employers to work together with educators or training providers.

The Kennedy-Feinstein bill contains a proposal for the creation of "Regional Skills Alliances." Money generated through application fees would be used to set up these Alliances that would bring together employers, organized labor, U.S. workers and educational institutions to focus on building the skills of U.S. workers. Another proposal is to allocate additional funds to the National Science Foundation's (NSF) Advanced Technological Education (ATE) program.

ATE is an educational institution-based program that is designed to foster partnerships between two- and four-year colleges, secondary schools, government, and industry to improve educational programs through curriculum and teacher/faculty development. These programs, in combination, could address the training of both new and incumbent workers.

There remains the question of whether the Administration should push for a provision that provides training money directly to individuals either through scholarships or loans. The Kennedy-Feinstein bill includes the creation of a new short-term student loan program. The Abraham bill adds funds to an existing scholarship program. According to OMB, the Department of Education, and others, there currently exists a variety of both loan and grant programs that are available to most workers. In addition, the Lifelong Learning Tax Credit is available to enable incumbent workers to obtain additional training. Thus, it may not make sense to spend any money generated by an H-1B application fee to augment an already adequate pool of money for loans or scholarships.

## 10. **Academic community concerns**

Some members of the academic community have expressed concern that a "recruit and retain" or "no lay-off" provision would unfairly limit their ability to hire H-1B non-immigrants as part of (temporary) research grant programs.