

**NLWJC - KAGAN**

**EMAILS RECEIVED**

**ARMS - BOX 075 - FOLDER -006**

**[04/20/1998 - 04/21/1998]**

# Withdrawal/Redaction Sheet

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Mickey Ibarra to Paul Weinstein and Elena Kagan. Subject: staff (1 page)	04/21/1998	P6/b(6)
002. email	Mickey Ibarra to Elena Kagan. Subject: staff (1 page)	04/21/1998	P6/b(6)
003. email	Diana Fortuna to Elean Kagan. Subject: favor (1 page)	04/21/1998	Personal Misfile
004. email	Phone No. (Partial) Pager No. (Partial) (1 page)	04/21/1998	P6/b(6)

**COLLECTION:**

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

**FOLDER TITLE:**

[04/20/1998 - 04/21/1998]

2009-1006-F  
 ke734

**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: Jennifer M. Palmieri ( CN=Jennifer M. Palmieri/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:20-APR-1998 11:16:51.00

SUBJECT: Teacher of the Year

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

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

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

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

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

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

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

TEXT:

FYI -- wanted to make sure that everyone knew that Rep. Goodling was planning on attending the Teacher of the Year event -- particularly since I know we want to talk about Master Teachers.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:20-APR-1998 11:40:43.00

SUBJECT:

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

READ:UNKNOWN

TEXT:

Call Kevin Thurm at 690-6133

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:20-APR-1998 12:26:46.00

SUBJECT: LRM #IMS301 - REVISED LABOR Testimony on H1B Nonimmigrant Visa Program and

TO: US@2=TELEMAIL@3=GOV+TREAS@5=DO@4=MS01@7=LLR@6=TREASURY@mrx@lngtwy ( 1=US@2=TELEM  
READ:UNKNOWN

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

TO: Rachel E. Levinson ( CN=Rachel E. Levinson/OU=OSTP/O=EOP@EOP [ OSTP ] )  
READ:UNKNOWN

TO: collins\_peter@ustr.gov@INET@VAXGTWY ( collins\_peter@ustr.gov@INET@VAXGTWY [ UNKN  
READ:UNKNOWN

TO: US@2=TELEMAIL@5=JMD@7=Deborah@6=Clifton@mrx@lngtwy ( 1=US@2=TELEMAIL@5=JMD@7=Deb  
READ:UNKNOWN

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

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

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

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

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

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

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

TO: Thomas A. Kalil ( CN=Thomas A. Kalil/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: S. A. Noe ( CN=S. A. Noe/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

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

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

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

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

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

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

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

TO: ogc\_legislation ( ogc\_legislation @ ed.gov @inet [ UNKNOWN ] )  
READ:UNKNOWN

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

TO: lrm ( lrm @ ostp.eop.gov @ inet [ UNKNOWN ] )  
READ:UNKNOWN

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

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

TO: Rebecca M. Blank ( CN=Rebecca M. Blank/OU=CEA/O=EOP@EOP [ CEA ] )  
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

TO: Mary Jo Siclari ( CN=Mary Jo Siclari/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

TO: Evan T. Farley ( CN=Evan T. Farley/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

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

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

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

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

CC: Darlene O. Gaymon ( CN=Darlene O. Gaymon/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

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

TEXT:  
You will not be receiving a paper copy of this LRM.

Total Pages: \_\_\_\_\_

LRM ID: IMS301  
EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
Washington, D.C. 20503-0001

Monday, April 20, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below  
FROM: James J. Jukes (for) Assistant Director for Legislative Reference  
OMB CONTACT: Ingrid M. Schroeder  
PHONE: (202)395-3883 FAX: (202)395-3109  
SUBJECT: REVISED LABOR Testimony on H1B Nonimmigrant Visa Program  
and the High Technology Industry  
DEADLINE: 3:30pm Monday, April 20, 1998

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

COMMENTS: The attached revised testimony was originally circulated under

LRM #IMS299 on Friday, April 17th. The testimony is for a hearing TOMORROW - April 21st. If we do not hear from you by the above deadline we will assume that you have no objections to the attached testimony.  
DISTRIBUTION LIST

## AGENCIES:

61-JUSTICE - Andrew Fois - (202) 514-2141  
114-STATE - Paul Rademacher - (202) 647-4463  
25-COMMERCE - Michael A. Levitt - (202) 482-3151  
128-US Trade Representative - Fred Montgomery - (202) 395-3475  
95-Office of Science and Technology Policy - Jeff Smith - (202) 456-6047  
84-National Science Foundation - Lawrence Rudolph - (703) 306-1060  
29-DEFENSE - Samuel T. Brick Jr. - (703) 697-1305  
30-EDUCATION - Jack Kristy - (202) 401-8313  
118-TREASURY - Richard S. Carro - (202) 622-0650  
52-HHS - Sondra S. Wallace - (202) 690-7760  
76-National Economic Council - Sonyia Matthews - (202) 456-6630  
Council of Economic Advisers - Liaison Officer - (202) 395-5084

## EOP:

Debra J. Bond  
Larry R. Matlack  
Barry White  
Barbara Chow  
Steven M. Mertens  
David J. Haun  
Daniel J. Chenok  
Joseph G. Pipan  
Evan T. Farley  
Louisa Koch  
Mary Jo Siclari  
Charles W. Fox  
Gregory G. Henry  
Sarah G. Horrigan  
Katherine M. Tyer  
S. A. Noe  
Jack A. Smalligan  
Julie A. Fernandes  
Elena Kagan  
Thomas A. Kalil  
Cecilia E. Rouse  
Sally Katzen  
Peter G. Jacoby  
Janet Murguia  
Maria Echaveste  
Emil E. Parker  
Robert N. Weiner  
William P. Marshall  
John A. Koskinen  
Karen Tramontano  
Donald H. Gips  
Ricardo M. Gonzales  
Rebecca M. Blank  
Maria J. Hanratty  
James C. Murr  
LRM ID: IMS301 SUBJECT: REVISED LABOR Testimony on H1B Nonimmigrant Visa Program and the High Technology Industry

RESPONSE TO

LEGISLATIVE REFERRAL  
MEMORANDUM

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

You may also respond by:

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

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

TO: Ingrid M. Schroeder Phone: 395-3883 Fax: 395-3109  
Office of Management and Budget  
Branch-Wide Line (to reach legislative assistant): 395-3454

FROM: \_\_\_\_\_ (Date)  
 \_\_\_\_\_ (Name)  
 \_\_\_\_\_ (Agency)  
 \_\_\_\_\_ (Telephone)

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

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

STATEMENT OF JOHN R. FRASER  
DEPUTY WAGE AND HOUR ADMINISTRATOR  
EMPLOYMENT STANDARDS ADMINISTRATION  
U.S. DEPARTMENT OF LABOR  
BEFORE THE  
SUBCOMMITTEE ON IMMIGRATION AND CLAIMS  
OF THE HOUSE JUDICIARY COMMITTEE

April 21, 1998

Mr. Chairman and Members of the Subcommittee:

We appreciate this opportunity to share the views of the Administration on whether this country's important high-technology industry should be afforded increased access to temporary foreign workers to meet its growing demand for highly skilled workers. In doing so, I want to again call your attention to the need to strengthen our education and training system to provide U.S. workers with the opportunity to acquire the skills needed to compete in our rapidly changing economy and the need pressing for reform of the H-1B nonimmigrant visa program.

Our information technology (IT) industry is essential to our continuing strong economic growth and wider prosperity. Our interest in the industry's strength is evidenced by our participation in a recent convocation in Berkeley that assessed IT work force needs. Further, as you know from Administration proposals advanced since 1993, we believe that the H-1B program needs fundamental reform. I would like to commend the Subcommittee for its interest in these issues.

We believe the issue of whether to increase the IT industry's access to temporary foreign workers should be evaluated within the framework of the following three questions:

- (1) Is there a shortage of skilled U.S. workers to fill jobs in the IT industry and meet future workforce needs?
- (2) What would be the consequences of raising the annual H-1B cap?
- (3) Does the current H-1B program need to be reformed in order to provide industry appropriate access to temporary foreign workers while protecting the job opportunities, wages and working conditions of U.S. workers?

I will address each of these in turn.

#### Tight Labor Markets and IT Skills Shortages

Proponents of increasing the annual cap on H-1B visas argue that this increase is necessary for the IT industry to be able to overcome an acute shortage of skilled U.S. workers. While there is no dispute that there is strong growth in demand for workers in the IT industry, it is much less clear that there is a shortage of skilled U.S. workers to meet this demand or that the domestic labor market won't be able to do so as it has over the last decade to satisfy projected job growth.

U.S. employment has been growing rapidly, labor markets are increasingly tight, and they are likely to remain so. Though this is true for the nation as a whole, IT labor markets appear to be particularly affected. Employment opportunities for computer systems analysts, engineers, and scientists have been growing by 10 percent a year or more well above the growth of comparable occupations and are expected to continue growing at a comparable rate through 2006. The Bureau of Labor Statistics (BLS) predicts that the U.S. will require more than 1.3 million new workers in IT core occupations between 1996 and 2006 to fill job openings projected to occur due to growth and the need to replace workers who leave the labor force or transfer to other occupations.

The IT skills shortage issue is very controversial. Some industry advocates assert that there exist more than three hundred thousand unfilled jobs within the IT industry, and that these vacancies are raising business costs and hurting U.S. competitiveness. On the other hand, critics argue that the IT industry: (1) overstates the problem by producing inflated job vacancy data and equating it to skills shortages; (2) continues to lay off tens of thousands of workers (e.g., Intel, Netscape, Cypress Semiconductor and Silicon Graphics recently announced large lay-offs); and (3) fails to tap reservoirs of available talent by insisting on unnecessarily specific job requirements and not providing more training to develop incumbent workers' skills.

Equating job vacancies and actual skills shortages is particularly controversial. While an industry association-sponsored survey indicates that there may be as many as 350,000 job vacancies in the IT industry, as you will hear, the General Accounting Office (GAO) has concluded that this

does not necessarily signal an acute shortage of skilled workers. In fact, most industries and firms (particularly those with rapid employment growth and high worker turnover) will have large numbers of job openings that do not indicate skills shortages.

While higher than average wage growth can be a reliable indicator of skill shortages, the wage growth record for the IT industry is mixed. Though BLS wage trends for broad computer-related categories show only average wage growth between 1988 and 1997 for all categories, it only shows above-average wage growth in 1996 and 1997 and only in the lower-skill computer-related categories, such as programmers. At the same time, a variety of industry wage surveys show larger wage increases in 1996 and 1997 in specialized, high-skill occupations.

The Commerce Department's September 1997 report and the subsequent GAO evaluation of that report both were inconclusive on the issue of a shortage of U.S. workers with IT skills and both concluded that more information and data are needed to understand and properly characterize the IT labor market.

The Subcommittee should also take into consideration other factors that bear on the question of the scope and duration of any labor shortage in the IT industry:

The current Year 2000 problem is now occupying thousands of IT workers for the short-term;

New technologies are being introduced that are creating more efficient ways to produce software, store and retrieve data, speed up computations, and generally improve the productivity of the IT work force;

The number of computer science enrollments has risen significantly in the last two years and nearly three-quarters of all IT workers got their education in other disciplines.

#### Consequences of Raising the H-1B Visa CAP

We strongly urge that any decision to raise the H-1B visa cap carefully consider the possible adverse impact of such a move on the normal process by which labor markets adjust to a growing demand for workers. The labor market should be permitted to adjust to this increased demand without the introduction of artificial factors (such as increasing access to temporary foreign workers) that could delay, if not prevent, these normal market adjustments. Indeed, the IT labor market has already begun to respond to the signals of increased demand. A survey of U.S. Ph.D. departments of computer science and computer engineering showed bachelor-level enrollments were up 46% in 1996, and another 39% in 1997 -- nearly doubling over the two year period (q: does this include foreign students?).

It is also important to remember that tight labor markets are good for U.S. workers. A tight labor market causes employers to raise wages, improve working conditions, and provide increased training to enable currently employed workers to keep pace with technology. An increased demand for trained workers induces educational and job training institutions to teach new skills. With more opportunities for training, workers acquire skills needed to obtain better, higher-paying and more secure jobs, thereby creating open jobs and career ladders for those just entering or reentering the labor market (e.g., young people, welfare recipients, displaced workers, and other disadvantaged groups). Therefore, tight labor markets create incentives for employers and workers to react in ways needed to achieve many of the Nation's top priorities: moving welfare recipients, out-of-school youth, and dislocated workers into jobs; providing greater opportunities for lifelong learning; and raising wages and reducing income inequality.

However, while tight labor markets are good for U.S. workers, labor markets can sometimes be slow to respond to skills shortages. In these circumstances, it is often argued that temporary foreign workers are needed in the short-term to provide necessary skills while the labor

market adjusts to provide U.S. workers with the requisite training. Without needed foreign temporary workers, industries experiencing genuine skill shortages may adjust in ways that do not serve the short-term or long-term priorities of the country, either by reducing job creation or by moving jobs overseas. Further, because the IT sector is so critical to our global competitive edge, the U.S. economy could suffer disproportionate harm if skill shortages do become acute.

Because the expanded use of foreign temporary workers may interfere with labor market adjustments and may make achieving our other priorities more difficult, we must make sure that any increase in the annual number of foreign temporary workers is done with care to ensure that the use of these foreign temporary workers is responding to a genuine skill shortage and does not interfere with healthy adjustments in the labor market.

We must also be cognizant that raising the H-1B cap will almost certainly increase both legal and illegal immigration. We know that nearly half of the workers who obtain permanent residency in the US as employment-based immigrants convert from H-visa nonimmigrant status. And according to the INS statistics, nearly one-half of all illegal aliens resident in the United States are visa over-stayers. With the attachments and equity they will form in the U.S. during their nonimmigrant stay of 6 years (or more), one can expect many of the additional H-1B entrants will eventually join the ranks of visa over-stayers.

The Department of Labor has heard from many concerned individuals and groups on the issue of the adverse impact on U.S. workers of raising the annual cap on H-1B visas. I would like to request that copies of the many letters we have received from these people be included in the record of today's hearing.

The Administration believes that our first response to meeting the workforce needs of the IT industry should be to provide the needed skills to U.S. workers to qualify them for IT jobs. The Administration already has taken significant steps to increase our capacity to enhance workforce skills. The President continues to pursue comprehensive reform of the Nation's employment and training system by working with Congress to enact the principles embodied in his GI Bill proposal. Moreover, in the historic balanced budget agreement of last summer, the President insisted on and achieved the largest increase in 30 years in the Federal investment to expand the skills of American workers, including:

- the largest Pell Grant increase in two decades;
- Hope Scholarships to make the first two years of post-secondary education universally available;
- the Lifelong Learning Tax Credit for the last 2 years of college and continuing adult education and training to upgrade worker skills;
- a major increase in employment and training resources, including increases for dislocated workers and disadvantaged adults and youth; and
- a \$3 billion program to help long-term welfare recipients secure lasting, unsubsidized employment.

Further, the Administration announced several new initiatives at the recent Berkeley Convocation to help address the growing demand for IT workers:

- A Labor Department Technology Demonstration project to test innovative ways of establishing partnerships between local workforce development systems, employers, training providers and others to train dislocated workers in needed high tech skills;
- The expansion and integration of America's Job Bank and America's Talent Bank to allow employers and workers to list and access job openings and worker resumes in one integrated system;
- The convening of four town hall meetings by the Commerce Department to discuss IT workforce needs, identify innovative practices, and showcase successful models; and

In addition, last week President Clinton and Secretary Herman announced that grants, totaling \$1.6 million, are being provided to projects in four states to continue highly successful programs to train dislocated workers for high paying jobs in information technology.

Finally, with the Technology Literacy Challenge and related educational programs, the Administration has put strong emphasis on effective use of educational technology to strengthen our nation's schools and school-to-work transition. Linking elementary/secondary schools, institutions of higher education, and business can produce the knowledge, know-how, and skills our nation's businesses and young people need in IT. This creates opportunities for business and America's students alike. [need more information on this to be able to answer questions.]

We believe that there is more that can be done to move U.S. workers into high technology jobs, and we welcome the discussions that may be sparked by this hearing. We are committed to continuing to pursue a dialogue with the major stakeholders on this critical workforce issue -- government, industry, workers, and education and training institutions -- to better define the workforce needs of the IT industry and develop appropriate solutions to meet these needs domestically through commitments from each of the stakeholders.

In sum, Mr. Chairman, our assessment of the likely effects of raising the H-1B cap reconfirms our strong conviction that our primary public policy response to skills mismatches due to changing technologies and economic restructuring must be to prepare the U.S. workforce to meet new demands. Yet we recognize that short-term demands for skills may require that we develop a balanced, short-term, response to meet urgent needs while we actively adjust to rapidly changing circumstances. However, increased numbers of temporary foreign workers should be the last -- not the first -- public policy response to skills shortages.

Given this broader context, let me now turn to the third of the issues I listed -- the pressing need for reform of the H-1B nonimmigrant program.

#### H-1B Nonimmigrant Program Must be Reformed

The H-1B visa program allows the admission of up to 65,000 workers each year (to stay for as long as six years), to meet short-term, high-skills employment needs in the domestic labor market. Temporary visa programs, like H-1B, are intended to allow employers who are faced with a domestic skills shortage to have access to temporary foreign workers with the requisite skills while the domestic labor market makes appropriate adjustments.

However, there exist serious structural flaws in the current H-1B program. These flaws are documented in a May 1996 report by the Department's Inspector General (IG). I would ask the Subcommittee to accept the IG's full report in the record of today's hearing.

The IG found that, despite the legislative intent: . . . the [H-1B] program does not always meet urgent, short-term demand for highly-skilled, unique individuals who are not available in the domestic work force. Instead, it serves as a probationary try-out employment program for illegal aliens, foreign students, and foreign visitors to determine if they will be sponsored for permanent status.

The IG also found that some [H-1B] employers use alien labor to reduce payroll costs either by paying less than the prevailing wage to their own alien employees or treating these aliens as independent contractors, thereby avoiding related payroll and administrative costs. It found, in addition, that other [H-1B] employers are "job shops," whose business is to provide H-1B alien contract labor to other employers. The IG concluded that the H-1B program does little to protect the jobs or wage of U.S. workers and it recommended eliminating

the current program and establishing a new program to fulfill Congress's intent.

Employers obtain H-1B workers by simply filing a labor condition application (LCA) with the Department affirming that they have complied with four requirements:

- that the higher of the local prevailing rate or the wage paid to the employer's similarly-employed workers will be paid to the foreign workers;
- that no strike or lockout exists involving the occupation;
- that notification has been provided to U.S. workers or their union; and
- that the employment of H-1B nonimmigrants will not adversely affect the working conditions of U.S. workers similarly employed.

By law, the Labor Department can do no more than review these attestations for completeness and obvious inaccuracies to determine whether an employer checked all of the boxes, made no flagrant errors, and signed the attestation and must do so within 7 days of receipt.

Because current law does not require any test for the availability of qualified U.S. workers in the domestic labor market, many of the visas under the current cap of 65,000 can be used by employers to hire foreign workers for purposes other than meeting a skills shortage. In addition, current law allows a U.S. employer to lay off U.S. workers and replace them with H-1B workers, and allows employers to retain H-1B workers for up to 6 years to fill a presumably temporary need. We simply do not believe this is right.

In 1993 the Administration asked the Congress to amend the H-1B nonimmigrant program to address these structural problems. Unfortunately for many U.S. businesses and workers, these amendments have not been enacted. The amendments requested in 1993 were carefully designed to ensure continued business access to needed high-skill workers in the international labor market while decreasing the H-1B program's susceptibility to misuse to the detriment of U.S. workers and the businesses that employ them. Briefly stated, the amendments would require employers which seek access to temporary foreign professional workers to also attest that:

- they have taken timely and significant steps to recruit and retain U.S. workers in these occupations; and

- they have not laid off or otherwise displaced U.S. workers in the occupations for which they seek nonimmigrant workers in the periods immediately preceding and following their seeking such workers.

In addition, the Administration urged enactment of another amendment to reduce the allowable period of stay under the H-1B program from six to three years to better reflect the temporary nature of the presumed employment need.

Enactment of these reforms will help employers actually facing skills shortages, including those in the IT industry, obtain needed workers through the H-1B program. Under existing law, employers facing skills shortages must compete for available visas (up to the cap of 65,000) on a first-come, first-served basis with other employers that do not face such shortages. Thus, enactment of the proposed amendments would reduce pressure on the visa cap by screening out employers that are not faced with skills shortages and have no interest in recruiting U.S. workers.

Some employers contend that adding these requirements will substantially slow down the admission process for foreign temporary workers and add many bureaucratic requirements to approval of their application. This contention is simply untrue. The Administration's proposed reforms would add two more boxes to be checked on the employer's one-page application. The Labor Department would still be subject to the existing requirements that the application be processed within seven days and only rejected where incomplete or where there are obvious inaccuracies. There would be no new procedures that could cause delays

in processing and approval. The employer would simply attest that it had tested the U.S. labor market in attempting to fill the job(s) and that, during certain times, it had not or would not lay off U.S. workers in the same occupation.

Many industry representatives assert that they search exhaustively in the U.S. labor market to fill open jobs and that the tight IT labor market does not allow lay off or displacement of U.S. workers. Accordingly, attesting to these two common sense reforms should impose no additional burden.

Some employers contend that any attempt to monitor the truthfulness of these attestations □\* after the application is approved and the nonimmigrants admitted □\* would subject the employer□,s hiring and termination decisions to □&second guessing□8 by the government. Such decisions are already subject to review in the context of enforcement of employment discrimination laws, including the anti-discrimination provisions of the immigration laws. Moreover, under existing law, employers□, authority to import foreign workers is conditional and there are few impediments to the exercise of this authority by employers before the approval of the nonimmigrant admission. Subjecting employers□, hiring and termination decision-making to scrutiny after-the-fact is the least burdensome way to ensure that the employers are not discriminating against U.S. workers in favor of temporary foreign workers.

If the Administration□,s reforms are not implemented and the two new attestation elements are not added to the H-1B program, the Labor Department will not be able to assure that the intended purposes of the program are actually served. The H-1B program exists to assure that U.S. employers can meet short-term labor needs by limited access the international labor market. Under current law, as the Inspector General has pointed out, the government is effectively powerless to assure that employers use the H-1B program for its intended purpose, and that purpose only.

#### Conclusion

Mr. Chairman, let me conclude by restating that the growing workforce needs of the IT industry can only be met □\* and the strength and growth of the industry secured in the long run □\* if we take the steps needed to fully develop and utilize the skills of U.S. workers. Increased reliance on temporary foreign workers should, at most, only be a small part of the solution and must be viewed as a minor complement to the development of the U.S. workforce. Further, let me repeat that reform of the H-1B program is essential to eliminating abuses under the program and providing appropriate protections for U.S. workers. Enactment of these reforms would effectively allocate a greater share of H-1B visas to employers facing actual skills shortages.

I appreciate the interest shown by the Subcommittee and staff in our views, and your thoughtful consideration of them. The Department looks forward to continuing to work closely and cooperatively with you and your staff on these issues.

Mr. Chairman, that concludes my prepared statement. I would be happy to respond to any questions.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:20-APR-1998 14:35:51.00

SUBJECT: Today's Statement by the President on Tobacco

TO: kburke1 ( kburke1 @ os.dhhs.gov @ inet [ UNKNOWN ] )  
READ:UNKNOWN

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

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

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

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

TO: Laura Emmett ( CN=Laura Emmett/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: JONATHAN.GRUBER ( JONATHAN.GRUBER @ MS01.DO.treas.sprint.com @ inet [ UNKNOWN ] )  
READ:UNKNOWN

TO: johara ( johara @ osophs.dhhs.gov @ inet [ UNKNOWN ] )  
READ:UNKNOWN

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

TO: Virginia N. Rustique ( CN=Virginia N. Rustique/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

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

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

TEXT:

for those who have not yet pulled it off the web.===== ATTACHMENT 1

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

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D21]MAIL470095901.126 to ASCII,  
The following is a HEX DUMP:

FF57504350040000010A020100000002050000002019000000020000BB563687C985EE7940EF83

STATEMENT BY THE PRESIDENT

THE WHITE HOUSE

Office of the Press Secretary

---

For Immediate Release

April 20, 1998

STATEMENT BY THE PRESIDENT

The Rose Garden

12:13 P.M. EDT

THE PRESIDENT: Good afternoon. Today, Congress returns to work and to its obligation to act on the most critical public health threat to our children. Over the next five weeks, this Congress has an historic opportunity to pass bipartisan comprehensive legislation to protect our children from the dangers of tobacco. We must not let this opportunity slip away.

The facts are plain as the stakes are high: Three thousand children begin to smoke every day, even though it's illegal in every state, and 1,000 will die earlier because of it. All these children have been targeted by a massive, multimillion-dollar media campaign that preys on their insecurities and their dreams.

For decades, we now know from their own documents that tobacco companies targeted children; and for decades, the industry denied it. Now, the tobacco industry once again seeks to put its bottom line above what should be our bottom line, the health of our children. In today's newspaper, the lead lobbyist for the tobacco industry says, and I quote: "We are fighting for our life." Well, let me be clear: We are fighting for the lives of our children. We are fighting for the public health, and we are fighting against

predatory practices by tobacco companies that have targeted our children.

In the days to come, the tobacco industry will doubtless raise objection after objection and will work behind closed doors to persuade Congress to pass half measures that will not reduce teen smoking. But I believe the majority of the American people and, indeed, the majority of Congress, members of both parties in Congress, will see this for what it is -- a tobacco industry smoke screen.

I ask Congress and the American people to focus on the real opportunity now within our reach. Over the next five weeks, Congress must move forward on comprehensive bipartisan legislation to reduce teen smoking by raising the price of cigarettes, putting into place tough restrictions on advertising, and access in imposing penalties on the industry if it continues to sell cigarettes to children. We can do that and protect the tobacco farmers at the same time.

The legislation now moving through the Senate, authored by Senator McCain, which was voted out of committee on a nearly unanimous bipartisan vote three weeks ago now is a strong step in the right direction. This is not a time for half measures; that simply won't reduce teen smoking and it will only play into the tobacco industry's hands. It is a time for the kind of comprehensive approach to the problem that Senator McCain's legislation takes.

We have an opportunity and an obligation now to put aside politics, to turn aside the pleas of special interests, to act in the interest of the health of generations of our children. I call on Congress to do so, and I look forward to working with them in good faith over the next few weeks.

Q The suggestions that Speaker McCain -- rather not, McCain -- pardon me.

THE PRESIDENT: Is he running for speaker?

Q No, but perhaps he should. Speaker Gingrich wants to water down the bill and House Republicans; there have been those suggestions. What's your reading of Speaker Gingrich's position and what position should he take?

THE PRESIDENT: Well, let me say, before his recent comments I had been encouraged, because he basically said that he would not permit us to take a stronger position than he did. I was concerned by his reported comments; you know, I wasn't here in the country, I didn't hear them, I didn't see the context of them. But I certainly hope that he will return to his former position.

We need this to be a bipartisan effort. We need everybody working together. And we can do this. We can work through all of the differences that are out there, and we can pass a bill that will clearly, dramatically reduce teen smoking. We can do it. And we've got fresh evidence from the Journal of the American Medical Association, showing that the role of advertising on children and their smoking habits has been even greater than peer pressure. We've got all this evidence out there and we know what to do, we know how to do it, we can do it. And I'm just hoping and praying that we will. Thank you.

END

12:18 P.M. EDT

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:20-APR-1998 17:06:11.00

SUBJECT: "Like refusing a life jacket to a dying person"

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

was the worst we got from the AIDS groups.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:20-APR-1998 17:06:56.00

SUBJECT:

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

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

TEXT:  
needles lead on inside politics now. RS

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:20-APR-1998 17:56:28.00

SUBJECT:

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

READ:UNKNOWN

TEXT:

Tonight's reception starts at 6:30 & we need you to review EBB memos first!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Stacie Spector ( CN=Stacie Spector/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 20-APR-1998 19:18:09.00

SUBJECT: Congressional statement tomorrow

TO: June Shih ( CN=June Shih/OU=WHO/O=EOP @ EOP [ WHO ] )

READ: UNKNOWN

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

READ: UNKNOWN

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

READ: UNKNOWN

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

READ: UNKNOWN

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

READ: UNKNOWN

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

READ: UNKNOWN

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

READ: UNKNOWN

TO: Lawrence J. Haas ( CN=Lawrence J. Haas/O=OVP @ OVP [ UNKNOWN ] )

READ: UNKNOWN

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

READ: UNKNOWN

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

READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Tuesday, April 21

Statement following Congressional meeting in Oval:

Time:	12:00 statement
Location:	Rose Garden steps
Program:	President, Vice President, Daschle, Gephardt
Press:	Open
Audience:	None
Remarks:	*President - School Modernization, 5 weeks to go, couple of other important issues left, here are a couple, and the CMB amendment vote
	*Vice President - School Modernization, speaks of community forums that he held around the country via conf. call, partisan hit on diverting money vs. investing in future for our kids.
	*Daschle - Lack of Republican agenda, especially on this, we have an education plan, they do not.
	*Gephardt - after 2 Congressional sessions they still have not done this, indicative of the lack of focus and unwillingness to make education a priority/or work hard at it.
	(Gephardt's office still working this out-will know more in am)
Speechwriter:	June Shih

(status as of Monday, 7:20pm - subject to change)

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:20-APR-1998 20:08:20.00

SUBJECT: FYI -- Q&A the Commerce Committee released today -- posted on their web si

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

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

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

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

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

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

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

TO: JONATHAN.GRUBER ( JONATHAN.GRUBER @ MS01.DO.treas.sprint.com @ inet [ UNKNOWN ] )  
READ:UNKNOWN

TO: johara ( johara @ osophs.dhhs.gov @ inet [ UNKNOWN ] )  
READ:UNKNOWN

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

TO: Virginia N. Rustique ( CN=Virginia N. Rustique/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

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

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

TEXT:

4/20/98

FREQUENTLY ASKED QUESTIONS ABOUT  
THE  
NATIONAL TOBACCO POLICY AND  
YOUTH SMOKING REDUCTION ACT

1. What is the bill designed to achieve?

The bill is designed to stop children from taking up smoking. Every day, three thousand kids begin smoking. One thousand of them will die early from smoking-related diseases. The Centers for Disease Control reports that Tobacco use among American youths is on the rise.

Nationally, smoking-related illnesses kill over 400,000 people a year, and costs taxpayers over \$45 billion annually in medical costs.

Experts indicate only a comprehensive approach including a ban on advertising appeals to children, hiking the price of cigarettes and providing FDA authority to oversee the industry will stop what public health officials call a pediatric epidemic.

The bill passed by the Senate Commerce Committee by an overwhelming majority, 19-1, is intended to achieve these goals, while protecting retailers and farmers.

2. How can I get a copy of the bill as reported by the Senate Commerce Committee?

The bill will be available on the Library of Congress's THOMAS Server after being introduced on the Senate Floor.

3. When is the full Senate expected to consider the bill?

Tobacco legislation is expected to be considered by the full Senate by June 1, 1998.

The goal is to have a bill approved by both the House of Representatives and the

Senate, which can be sent to the President and signed into law before the end of 1998.

4. With Senate action around the bend, who would be the best person I can

voice my opinion to about this measure?

Interested citizens should contact their Senators and Representatives to share their views on tobacco legislation or any other measure before Congress.

5. What is the House of Representatives going to do about tobacco legislation?

The leadership of the House of Representatives agrees that Congress must move forward on the issue of kids smoking this year, but have not said

officially how and  
under what time line tobacco legislation will be considered.

6. The bill appears to be unconstitutional, in violation of the 1st and 14th Amendments.

Last year the tobacco industry said they would sign protocols agreeing not to engage in certain forms of advertising as part of a global tobacco settlement, particularly with respect to children. Legal experts agree that the industry has every right under the Constitution to curtail its own activities, including commercial speech.

If the industry does not agree, Congress constitutionally can take action, though not as broad as last year's agreement, to curtail advertising aimed at children.

7. The price per pack of cigarettes will increase. Isn't the price increase a tax?

Who will have to pay the increase?

Consumers of tobacco products will pay for increases in the price per pack of cigarettes. Whether it is called a settlement payment, a franchise fee or a tax, the reality is the industry and consumers will pay more. That is part of the cost of stopping kids from smoking and for reimbursing the tens of billions of taxpayers' dollars expended to treat victims of smoking related disease.

8. Why did Republicans vote for this measure?

Republicans and Democrats alike voted for this measure because stopping kids from smoking is a national, not a partisan, imperative. Documents released in Court and to Congress indicate that the industry has long known the harmful and addictive nature of tobacco, and yet actively worked to hook kids early--even though doing so would kill one-third of them.

9. Isn't this a get-rich scheme for the politicians and lawyers?

No, the bill is a comprehensive plan developed in a bi-partisan fashion with the help with public health experts, including Dr. C. Everett Koop and Dr. David Kessler, and the administration to solve a serious national problem. If we do nothing, kids will continue to get hooked in greater numbers, and the yearly death toll and health care costs will continue to skyrocket.

10. If enacted into law, how will the following be affected?

A. Tobacco industry? According, to the Department of Treasury, the price increases

requested by public health and the President, and included in the Commerce

Committee bill will not bankrupt any company. Volumes of tobacco consumption will

drop with decreases in underage usage but, cigarettes will remain legal and smoking a

choice to be made by adults.

B. Tobacco farmers? The bill contains legislation drafted by tobacco state Senators

to provide comprehensive assistance to farmers and rural communities. Congress is

committed to ensuring that innocent, hardworking American farmers and tobacco

dependent rural communities will receive the support and assistance they need.

C. Vending machine owners/operators? The Committee believes the tobacco

vending machine companies and employees should be compensated if their industry is

adversely by a tobacco settlement. The tobacco bill passed by the Commerce

committee would create a non-profit corporation that includes tobacco vending

machine industry representatives, to provide payments to vending machine companies.

The amount of compensation provided to individual vending companies would be

determined by this non-profit Board. The vending machine industry strongly supported

this proposal and urged the Committee to include the provision in the bill.

D. Indian tribes? The bill ensures that tobacco taxes will be collected on Indian lands

so that disparate pricing of tobacco products does not create a youth access problem.

This will be accomplished in a manner that protects tribal sovereignty and the federal

trust relationship.

E. Veterans? The bill includes an amendment by Senator Rockefeller granting the

Department of Veterans Affairs the right to sue on behalf of veterans for tobacco

related compensation.

How revenues derived from the settlement will be divided, including for veterans health

care, is an issue that will be dealt with by the full Senate.

11. Aren't the tobacco companies being treated unfairly?

No. But, unfortunately, the tobacco companies have treated the nation unfairly by

targeting kids in their marketing. As a result, we have a serious public health problem that must be answered with tough legislation.

12. If the tobacco industry goes bankrupt, won't it have an adverse effect on

the U.S. economy?

The goal of this legislation is not to put any company out of business. The Department

of Treasury says the bill will not have that effect. If bankruptcy is a real threat, rather

than walk away from the table, the industry should make their case to the

administration.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Miriam H. Vogel ( CN=Miriam H. Vogel/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:20-APR-1998 20:17:43.00

SUBJECT: Bilingual Ed

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

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

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

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

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

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

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

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

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

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

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

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

TEXT:

To confirm: We are planning to do the roll-out mtg on Wednesday, April 22 at 6:40 in Maria's office.

Thank you-

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ruby Shamir ( CN=Ruby Shamir/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:21-APR-1998 08:51:33.00

SUBJECT: 11:30 Tobacco Mtg

TO: Eli G. Attie ( CN=Eli G. Attie/O=OVP @ OVP [ UNKNOWN ] )

READ:UNKNOWN

TO: Laura Emmett ( CN=Laura Emmett/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: Dominique L. Cano ( CN=Dominique L. Cano/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: Dario J. Gomez ( CN=Dario J. Gomez/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

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

READ:UNKNOWN

TO: Laura K. Capps ( CN=Laura K. Capps/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: Darby E. Stott ( CN=Darby E. Stott/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

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

READ:UNKNOWN

TO: Janet Murguia ( CN=Janet Murguia/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: Thomas D. Janenda ( CN=Thomas D. Janenda/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: 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: Jennifer M. Palmieri ( CN=Jennifer M. Palmieri/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

TO: Michelle Crisci ( CN=Michelle Crisci/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:

There will be a mssg mtg on next week's Tobacco Event today at 11:30a in Ann Lewis' office. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Matthew J. Bianco ( CN=Matthew J. Bianco/O=OVP [ UNKNOWN ] )

CREATION DATE/TIME:21-APR-1998 09:22:25.00

SUBJECT: Kennedy/Conrad Mtg Rescheduled

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

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

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

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

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

CC: Ricardo M. Gonzales ( CN=Ricardo M. Gonzales/O=OVP [ UNKNOWN ] )  
READ:UNKNOWN

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

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

CC: David R Thomas ( CN=David R Thomas/O=OVP @ OVP [ UNKNOWN ] )  
READ:UNKNOWN

Kay Casstevens ( CN=Kay Casstevens/O=OVP [ UNKNOWN ] )  
READ:UNKNOWN

Matthew J. Bianco ( CN=Matthew J. Bianco/O=OVP [ UNKNOWN ] )  
READ:UNKNOWN

TEXT:

Kay Casstevens has asked that I relay the following information to you regarding the rescheduled Kennedy/Conrad Mtg. It is to occur this Thursday, April 23rd in the Vice President's West Wing Office. The pre-brief (which she would like Mr. Reed, Mr. Stein, Ms. Kagan, & Ms. Donenfeld to attend) is scheduled for 4:45 pm; this will be directly followed by the meeting w/the Senators (which she would like Mr. Goldberg to attend) from 5:00 - 5:30 pm. If you have any questions, please feel free to call me at 224-8391. Thanks!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:21-APR-1998 09:37:09.00

SUBJECT:

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

READ:UNKNOWN

TEXT:

Call Begala re; quick question 66288

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Mickey Ibarra ( CN=Mickey Ibarra/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:21-APR-1998 09:43:20.00

SUBJECT: Senator Feinstein's Tobacco Concerns

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

The issue below is of more concern that only California. USCM, NACo, and NLC have expressed the same view. What is our response? Thanks.

----- Forwarded by Mickey Ibarra/WHO/EOP on 04/21/98 09:40 AM

PETER G. JACOBY

04/20/98 06:58:50 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Mickey Ibarra/WHO/EOP

cc: Lawrence J. Stein/WHO/EOP, Elena Kagan/OPD/EOP, Jessica L.

Gibson/WHO/EOP, Cathy R. Mays/OPD/EOP

Subject: Senator Feinstein's Tobacco Concerns

Senator Feinstein called earlier today to express her concern with the provisions of the McCain bill that preempt local governments from being able to sue tobacco companies to recover tobacco-related Medicaid expenses paid by those governments. The Senator would like our support for reversing these provisions in our discussions with Senator McCain. Additionally, she would like Bruce to call Louise Renne, the San Francisco City Attorney at 415-554-4288 to discuss our position on this issue. Please call if you need any information. Peter

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:21-APR-1998 09:44:59.00

SUBJECT:

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

TEXT:

Rahm wants one needle exchange Q&A on why we backed out w/in 15 minutes!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:21-APR-1998 09:49:36.00

SUBJECT: LRM #IMS 302 - REVISED Statement of Administration Policy on HR1252 Judici

TO: omb@mspb.gov ( omb@mspb.gov @ inet [ UNKNOWN ] )  
READ:UNKNOWN

TO: US@2=TELEMAIL@5=JMD@7=Deborah@6=Clifton@mrx@lngtwy ( 1=US@2=TELEMAIL@5=JMD@7=Deb  
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

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

TO: US@2=TELEMAIL@3=GOV+TREAS@5=DO@4=MS01@7=LLR@6=TREASURY@mrx@lngtwy ( 1=US@2=TELEM  
READ:UNKNOWN

TO: ao\_courts\_lrm@ao.uscourts.gov ( ao\_courts\_lrm@ao.uscourts.gov @ inet [ UNKNOWN ] )  
READ:UNKNOWN

TO: Kate P. Donovan ( CN=Kate P. Donovan/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

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

TO: Peter G. Jacoby ( CN=Peter G. Jacoby/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: Randolph M. Lyon ( CN=Randolph M. Lyon/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

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

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

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

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

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

CC: Darlene O. Gaymon ( CN=Darlene O. Gaymon/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

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

TEXT:  
You will not be receiving a paper copy of this LRM.  
Total Pages: \_\_\_\_\_

LRM ID: IMS302  
EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
Washington, D.C. 20503-0001

Tuesday, April 21, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: James J. Jukes (for) Assistant Director for Legislative Reference  
OMB CONTACT: Ingrid M. Schroeder  
PHONE: (202)395-3883 FAX: (202)395-3109

SUBJECT: REVISED Statement of Administration Policy on HR1252  
Judicial Reform Act of 1997

DEADLINE: 12:30 Tuesday, April 21, 1998

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

COMMENTS: Please note that the SAP contains a veto recommendation from the Attorney General.  
DISTRIBUTION LIST

## AGENCIES:

11-Administrative Office of the U.S. Courts - Michael W. Blommer - (202) 273-1120  
61-JUSTICE - Andrew Fois - (202) 514-2141  
118-TREASURY - Richard S. Carro - (202) 622-0650  
67-Merit Systems Protection Board - Susan Williams - (202) 653-6772  
92-Office of Personnel Management - Harry Wolf - (202) 606-1424  
76-National Economic Council - Sonyia Matthews - (202) 456-6630

## EOP:

David J. Haun  
Kenneth L. Schwartz  
Michael Deich  
Theodore Wartell  
Steven D. Aitken  
Robert G. Damus  
Douglas D. McCormick  
Lisa B. Fairhall  
Ellen J. Balis  
Kathleen M. Turco  
Randolph M. Lyon  
William P. Marshall  
Paul J. Weinstein Jr.  
Elena Kagan  
Peter G. Jacoby  
Broderick Johnson  
Charles M. Brain  
Alice E. Shuffield  
Kate P. Donovan  
James C. Murr  
LRM ID: IMS302 SUBJECT: REVISED Statement of Administration Policy on  
HR1252 Judicial Reform Act of 1997

RESPONSE TO  
LEGISLATIVE REFERRAL  
MEMORANDUM

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

You may also respond by:

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

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

TO: Ingrid M. Schroeder Phone: 395-3883 Fax: 395-3109  
Office of Management and Budget  
Branch-Wide Line (to reach legislative assistant): 395-3454

FROM: \_\_\_\_\_ (Date)

\_\_\_\_\_ (Name)  
 \_\_\_\_\_ (Agency)  
 \_\_\_\_\_ (Telephone)

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

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

DRAFT -- NOT FOR RELEASE

April 21, 1998  
(House Rules)

H.R. 1252 - Judicial Reform Act of 1998  
(Hyde (R) Illinois and 8 cosponsors)

The Administration strongly opposes House passage of H.R. 1252 and, if presented to the President in its current form, the Attorney General would recommend that the bill be vetoed because it:

Purports to restrict the remedial powers of Article III Federal courts to enforce constitutional rights. Under current law, Federal district courts may compel State and local governments to levy taxes in excess of their State law taxing powers when such a remedy would be required to enforce a Federal constitutional right. In addition, Federal courts have long been held to possess the equitable authority to compel State and local governments to exercise their existing taxing authority even when the Constitution would not require imposition of such a remedy. The bill's proposed restrictions would curtail the equitable discretion of Federal district courts, as well as deprive them of the power to remedy certain constitutional rights. The latter deprivation of power raises constitutional concerns and would be subject to reasonable constitutional challenge. (Section 5)

Would give parties in civil cases the right to exercise preemptive strikes against Article III judges, without even a requirement to show cause. Such a procedure threatens to undermine the independence of the Federal Judiciary that Article III of the Constitution was intended to secure, as well as undermine the public's confidence in life-tenured and constitutionally appointed Federal judges as impartial adjudicators. Litigants assuredly will engage in judge and forum shopping -- sometimes with improper motives. Additionally, these peremptory strikes would add further delay to the civil litigation system and erode the rule of law. (Section 6)

Would require the use of a three-judge panel for certain injunctions and declaratory actions. This provision would adversely affect the operation of several preemptive Federal statutes in situations where a State has passed a referendum that is contrary to Federal law. Lastly, this provision is objectionable because it would provide unprecedented direct and immediate access to the Supreme Court, even when the three-judge court denies injunctive relief. (Section 2)

\* \* \* \* \*

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Eleanor S. Parker ( CN=Eleanor S. Parker/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:21-APR-1998 09:52:48.00

SUBJECT:

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

READ:UNKNOWN

TEXT:

PLS CALL BEGALA EMERGENCY 66288

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Paul E. Begala ( CN=Paul E. Begala/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:21-APR-1998 10:06:55.00

SUBJECT: tobacco topper

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

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

TEXT:

Good afternoon. The Vice President and I have just concluded a productive discussion with Sen. Daschle and Rep. Gephardt. We talked about many issues, but our central focus, and the focus of the Congress this week, is on two issues that affect our children greatly: tobacco and education.

On the issue of tobacco, we discussed our continuing efforts to work with men and women of good faith from both political parties, as well as leaders of the public health community, to pass tough but fair legislation to reduce teen smoking. It seems like each day brings further proof of the long and tragic campaign by Big Tobacco to market cigarettes to vulnerable and insecure teenagers. One document referred to "replacement smokers" -- a remarkably cynical euphemism for our children. And we are all now familiar with the research that showed that children found Joe Camel as recognizable as Mickey Mouse.

There should be no partisan divide on the question of stopping tobacco companies from targeting our children. I am impressed by the bipartisan progress the Senate is making under the leadership of Senator John McCain and others. And yet I am deeply concerned when national leaders are quoted as saying Joe Camel has nothing to do with teen smoking. There is ample room for honest disagreement. But when I hear important national figures making outrageous statements like that, I realize how far we still have to go in reducing not only big tobacco's influence over our children, but also its influence over political debate.

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Mickey Ibarra to Paul Weinstein and Elena Kagan. Subject: staff (1 page)	04/21/1998	P6/b(6)

### COLLECTION:

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

### FOLDER TITLE:

[04/20/1998 - 04/21/1998]

2009-1006-F  
ke734

### 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: Jason M. Dunn ( CN=Jason M. Dunn/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:21-APR-1998 10:47:01.00

SUBJECT: RE: Privitization Follow Up

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TEXT:

We are re-scheduling the privatization follow-up mtg. with the AFL-CIO till Tuesday, April 28 in the afternoon. What times look good so far?

Jason

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:21-APR-1998 10:49:38.00

SUBJECT: Needle Exchange

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

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

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

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

TEXT:

Richard and I are anxious to get our talking points down so we can make calls early today while we can still do some good--thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: June Shih ( CN=June Shih/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:21-APR-1998 11:52:24.00

SUBJECT:

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

READ:UNKNOWN

TEXT:

Good Afternoon. In the coming weeks, the Congress will be making many important decisions on how we can best prepare our children for the 21st Century.

First, we have an historic opportunity to pass bipartisan legislation to protect our children from the dangers of tobacco. This legislation would put an end to the tobacco industry's calculated, multi-million dollar media campaign to hook our children to the deadly habit of smoking. For years, the cartoon character Joe Camel was the star of their efforts to create a new generation of customers for cigarettes-- what the tobacco industry callously called "replacement smokers."

Even as the tobacco executives denied they were targetting children, Joe Camel became as recognizable to our children as Mickey Mouse. Now some in Congress say that teen smoking has "nothing to do" with Joe Camel. Medical science and common sense makes it plain: teen smoking has everything to do with Joe Camel, with unscrupulous marketing campaigns that prey on the insecurities and dreams of our children. The tobacco industry spent hundreds of millions of dollars on such marketing campaigns. [refer to American Medical Association study] It's plain as day that cartoon camels are not designed to appeal to adults.

It's time to end this horrible history once and for all. I call on Congress to pass strong, bipartisan tobacco legislation. And I call on leaders of both parties to work together for our children.

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. email	Mickey Ibarra to Elena Kagan. Subject: staff (1 page)	04/21/1998	P6/b(6)

### COLLECTION:

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

### FOLDER TITLE:

[04/20/1998 - 04/21/1998]

2009-1006-F  
ke734

### 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:21-APR-1998 12:57:10.00

SUBJECT:

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

READ:UNKNOWN

TEXT:

Richard pointed out an error in the first paragraph of needle Q&A's; call  
Laura 65584

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:21-APR-1998 13:44:48.00

SUBJECT: Here is a summary of the McCain bill you may find handy

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

TO: JONATHAN.GRUBER ( JONATHAN.GRUBER @ MS01.DO.treas.sprint.com @ inet [ UNKNOWN ] )  
READ:UNKNOWN

TO: johara ( johara @ osophs.dhhs.gov @ inet [ UNKNOWN ] )  
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

READ:UNKNOWN

TO: Mary L. Smith ( CN=Mary L. Smith/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:  
courtesy of OMB, with assistance from HHS and DOJ.

This is an internal document. Thanks. ===== ATTACHMENT 1 =====  
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:  
Unable to convert ARMS\_EXT:[ATTACH.D33]MAIL47365501G.126 to ASCII,  
The following is a HEX DUMP:

FF57504303140000010A02010000000205000000836A000000020000030E9942507CA955108222D  
BD701FB6B3892139DFC64724FE88B8AFEBF752673A4FBB358C2A62A9B009D1C1EA8BF58AD2FBA8

ISSUE	COMMERCE COMMITTEE MARK
<p><b>MARKETING AND ADVERTISING RESTRICTIONS</b></p>	<p>Calls for National and State protocols by which industry agrees to no outdoor advertising; no human images or cartoon characters, black and white text only advertising (except in adult periodicals and venues); no animal figures. No color ads on the back face of adult magazines.</p> <p>Limits advertising to FDA/FTC specified media. Restricts glamorization of tobacco.</p> <p>Any advertising that violates the statute or protocol is considered "false and misleading."</p> <p>Liability limits eliminated if tobacco companies challenge or are no longer bound by advertising restrictions.</p> <p>Places size, color, number, and placement restrictions on point-of-sale advertising and displays. Provides for no additional point-of-sale advertising for companies with higher market share.</p> <p>Preemption of further restrictions on advertising or package labeling requirements remains in the Federal Cigarette Labeling and Advertising Act (CLAA).</p> <p>Requires health warnings on advertisements.</p>
<p><b>WARNINGS, LABELING AND PACKAGING</b></p>	<p>Requires new, explicit warning labels in bold type. Requires alternating black on white; white on black warning labels for packages. Requires health warnings. Allows FDA to update warnings at any time based on science. Requirements for package warnings other than those set by FDA are preempted by the CLAA.</p>
<p><b>YOUTH ACCESS RESTRICTIONS</b></p>	<p>Federal prohibition of sales to minors under 18; requires photo ID if under age 27; requires face to face transactions; bans vending machines and self-service sales except in adult-only facilities, permits mail-order sales subject to FDA review.</p> <p>Administered by FDA.</p>
<p><b>VENDING MACHINE OWNER COMPENSATION</b></p>	<p>Bans the sale of tobacco products through the use of vending machines and authorizes a system to compensate the owners of such machines.</p> <p>No funding specified.</p>
<p><b>CESSATION AND PREVENTION</b></p>	<p>No funding specified.</p> <p>Authorizes a National Community Action Program; National Cessation Research Program; National Tobacco Free Public Education Program; National Smoking Cessation Program; various studies; counter-advertising and creation of Tobacco Use and Cessation Board.</p>
<p><b>UNDERAGE TOBACCO</b></p>	<p>Sets reduction targets of underage use based on the</p>

ISSUE	COMMERCE COMMITTEE MARK															
<b>USE TARGETS</b>	<p>number of years after enactment of the legislation.</p> <table border="0"> <thead> <tr> <th></th> <th><b>Cigarettes</b></th> <th><b>Smokeless</b></th> </tr> </thead> <tbody> <tr> <td>3 yrs. --</td> <td>15%</td> <td>12.5%</td> </tr> <tr> <td>5 yrs --</td> <td>30%</td> <td>25%</td> </tr> <tr> <td>7 yrs --</td> <td>50%</td> <td>35%</td> </tr> <tr> <td>10 yrs --</td> <td>60%</td> <td>45%</td> </tr> </tbody> </table> <p>No targets are set for underage use of other tobacco products, such as cigars, little cigars, roll-your-own, or pipes.</p>		<b>Cigarettes</b>	<b>Smokeless</b>	3 yrs. --	15%	12.5%	5 yrs --	30%	25%	7 yrs --	50%	35%	10 yrs --	60%	45%
	<b>Cigarettes</b>	<b>Smokeless</b>														
3 yrs. --	15%	12.5%														
5 yrs --	30%	25%														
7 yrs --	50%	35%														
10 yrs --	60%	45%														
<b>LOOK-BACK PENALTIES</b>	<p>Industry-wide penalties only (no firm-specific).  Requires HHS to annually determine through surveys (beginning in 3rd year after enactment) the underage <b>daily</b> use of cigarettes and smokeless tobacco during the preceding year.  Requires Industry to pay tiered monetary penalties (non-tax deductible) for falling short of youth reduction targets.  <b>1-5 percentage points short:</b> \$80 million per point.  <b>6-10 percentage points short:</b> \$160 million per point.  <b>11 and above percentage points short:</b> \$240 million per point.  Yearly cap of <b>3.5 billion</b> with no tax deductibility of penalty payments.  Joint, several &amp; strict liability for penalties. Provides legal actions for companies against another for financial liability.  If any company misses its share of target by more than 20 points, company's liability cap is waived for 2 years or until goal is met, whichever is later, with due process.  Liability cap is waived for criminal convictions of violations under this act.</p>															
<b>USE OF PENALTY AMOUNTS</b>	<p>Transfers 90% of penalty receipts to grants for states/local governments to further reduce youth smoking. Secretary may retain up to 5% of penalty receipts for administration of the look-back assessment. The final 5% of receipts is for a compliance bonus to reward states and retailers who prevent youths (less than 5%) from successfully purchasing tobacco products. Secretary may withhold 5% of any state's grant if state fails to enforce compliance with youth access restrictions.</p>															
<b>STATE ENFORCEMENT OF YOUTH ACCESS LAWS</b>	<p>Compliance goals set (see above Use of Penalty Amounts) for state and tribal governments. Funding from settlement for enforcement efforts.  Repeals the 1992 Synar Amendment, which was an earlier effort to set targets for the percentage of youths who successfully purchase tobacco products.  Percentage of funding withheld for non-compliance is</p>															

ISSUE	COMMERCE COMMITTEE MARK
	greater in Synar (ranging from 20- 40%, although difference in absolute dollar values are not known). This amendment is no longer needed because these requirements replace it.
<b>LICENSING OF RETAILERS</b>	Requires state, tribal and federal licensing program to be funded from settlement. FDA would draft model state program in consultation with state and local officials.
<b>FDA REGULATION OF TOBACCO PRODUCTS AND NICOTINE</b>	<p>Recognizes FDA has broad authority over tobacco including advertising, youth access, and new products. FDA authority over tobacco is separate chapter of FD&amp;C Act to assure FDA authority over tobacco will not affect FDA authority over other regulated products.</p> <p>Provides for FDA authority over youth access. FDA approval of new products.</p> <p>Any ban on nicotine, retail sales, or category of tobacco products would require Presidential notification to Congress and include two-year waiting period for Congress to act. If Congress does not act ban goes into effect.</p> <p>No FDA authority over farmers (e.g., would be no control over genetic manipulation of tobacco leaf).</p> <p>FDA rules must take into account the impact of actions on demand for unregulated contraband products.</p>
<b>CORPORATE CULTURE AND COMPLIANCE, LOBBYISTS AND WHISTLE BLOWERS</b>	Calls for national and state protocols requiring an industry plan to comply with all new laws on the manufacture and distribution of tobacco. Protects industry whistle blowers. Requires lobbyists to comply with the act and agree not to support or oppose any federal or state legislation without consent of manufacturers. Disbands the Tobacco Institute and the Council for Tobacco Research. Industry plan would include specific assessment mechanism and enforcement standards of industry plan to be included in the protocols.
<b>SMOKING RESTRICTIONS IN PUBLIC FACILITIES (ETS)</b>	<p>Restrict smoking in public facilities to enclosed areas. Specifies that employees may not be required to enter smoking areas. Exempts restaurants (other than fast food), bars, private clubs, hotel guest rooms, casinos, bingo parlors, tobacco outlets, prisons, private residences and any building with any of the above facilities/functions in them.</p> <p>Allows states to opt out.</p> <p>Authorizes incentive grant program for states.</p>
<b>INDUSTRY PAYMENTS</b>	<p>Establishes National Tobacco Settlement Trust Fund.</p> <p>Calls for industry to pay \$10 billion up-front.</p> <p>Yearly payments required of industry:</p>

ISSUE	COMMERCE COMMITTEE MARK														
	<p>1999 -- \$14.4 billion  2000 -- \$15.4 billion  2001 -- \$17.7 billion  2002 -- \$21 billion  2003 -- \$23.6 billion</p> <p>Each year thereafter, \$23.6 billion in real dollars (though the bill has a misprint and says the 2004 amount is \$21.0 billion.)</p> <p>Payments are volume adjusted -- increased if consumption volume increases and decreased if volume decreases from 2004 levels.</p> <p>Payments are tax deductible.</p> <p>Nominal Net Receipts (FY99-03) -- \$71.1 billion</p> <p>Implied Per-Pack Equivalents (Real 1999 \$):</p> <p>1999 -- 65 cents per pack  2000 -- 70 cents per pack  2001 -- 80 cents per pack  2002 -- \$1 per pack  2003 -- \$1.10 per pack</p>														
<p><b>SPENDING FROM TRUST FUND</b></p>	<p>Most spending decisions are left to the floor of the Senate.</p> <p>Committee mark specifies funding for:</p> <table border="0" data-bbox="630 1013 1360 1325"> <tr> <td></td> <td style="text-align: right;"><b>5-Year Funding</b></td> </tr> <tr> <td>FDA:</td> <td style="text-align: right;">\$2 billion</td> </tr> <tr> <td>States:</td> <td style="text-align: right;">\$26 billion (OMB estimate)</td> </tr> <tr> <td>Farmers:</td> <td style="text-align: right;">\$11 billion</td> </tr> <tr> <td>International:</td> <td style="text-align: right;">\$1 billion</td> </tr> <tr> <td><b>Total Spending:</b></td> <td style="text-align: right;"><b>\$39 billion</b></td> </tr> <tr> <td><b>Receipts Less Spending:</b></td> <td style="text-align: right;"><b>\$32 billion</b></td> </tr> </table> <p>Although it is not clearly indicated in the bill, we understand that McCain intended to allow manufacturers to deduct 80% of the \$6.5 annual liability cap (see liability section below) from their annual payments. This could reduce the net receipts by an additional \$26 billion over 5 years.</p> <p>The bill also authorizes funding for NIH, CDC, and AHCPH research using language from the Conrad bill, which included \$17 billion for these activities.</p>		<b>5-Year Funding</b>	FDA:	\$2 billion	States:	\$26 billion (OMB estimate)	Farmers:	\$11 billion	International:	\$1 billion	<b>Total Spending:</b>	<b>\$39 billion</b>	<b>Receipts Less Spending:</b>	<b>\$32 billion</b>
	<b>5-Year Funding</b>														
FDA:	\$2 billion														
States:	\$26 billion (OMB estimate)														
Farmers:	\$11 billion														
International:	\$1 billion														
<b>Total Spending:</b>	<b>\$39 billion</b>														
<b>Receipts Less Spending:</b>	<b>\$32 billion</b>														
<p><b>FUNDING PRIORITIES</b></p>	<p>In absence of specific funding recommendations, the bill includes a "Sense of the Senate" amendment indicating that the funds raised by this act should be used to support the following priorities:</p> <ol style="list-style-type: none"> <li>1. Tobacco use prevention and cessation.</li> <li>2. Tobacco related health research.</li> <li>3. Assist tobacco farmers and tobacco dependent communities.</li> <li>4. Reimburse public health care financing programs for</li> </ol>														

<b>ISSUE</b>	<b>COMMERCE COMMITTEE MARK</b>
	<p>tobacco related costs, including Medicare.</p> <ol style="list-style-type: none"> <li>5. Settle with and reimburse states for tobacco related health care costs and damages, including Medicaid.</li> <li>6. Create a Tobacco Asbestos Trust Fund.</li> <li>7. Provide funding for the Federal Black Lung Program.</li> <li>8. Child Care</li> <li>9. Clinical Trials at NIH.</li> <li>10. Veterans.</li> </ol>
<b>CONSENT DECREES AND NATIONAL PROTOCOL</b>	<p>Manufacturers and states enter into consent decrees that include many of the provisions of the Act, and include a waiver of Constitutional claims.</p> <p>Within 6 months of enactment requires each manufacturer to enter into a legally binding and enforceable contract (The National Tobacco Control Protocol) on both the federal and state level. Federal protocol to be executed with U.S. Attorney General in consultation with the Secretary of HHS. State protocol to be executed with State Attorney General in consultation with state Governor.</p>
<b>NON-PARTICIPATING MANUFACTURERS</b>	<p>Denies non-participating manufacturers liability protection and imposes user fees on them equal to the annual assessment paid by participating manufacturers. In addition, non-participating manufacturers must make annual payments into a reserve fund to settle liability claims; the amount is equal to 150% of the payment it would have paid under the bill if the manufacturer had actually been a party to the Settlement.</p>
<b>ATTORNEYS' FEES</b>	<p>All attorney's fees and costs paid by industry outside the payments made under this act.</p> <p>Three member arbitration panel in which plaintiff representative and defendant representatives pick a third member.</p>
<b>CIVIL LIABILITY RESTRICTIONS</b>	<p>Establishes a \$6.5 billion cap on annual industry payments for individual liability claims against participating manufacturers. Permits suits by private plaintiffs (incl. class actions and third-party suits), and claims by the federal government, but preempts suits brought by states, local governments and Indian tribes. Permits punitive damages for past conduct (within the cap) and punitive damages for future conduct (outside the cap). Prohibits addiction and dependence claims. Creates a federal cause of action with concurrent jurisdiction in state and federal courts for tobacco-related health injuries. Requires courts to sever trials involving participating and non-participating manufacturers. Creates rebuttable presumptions that: 1) nicotine is addictive; and 2) certain specified diseases are caused</p>

ISSUE	COMMERCE COMMITTEE MARK
	<p>by use of tobacco products.</p> <p>The bill does not appear to establish a fund of money from which judgements and settlements are paid (although this may have been intended). Instead, the bill requires the Secretary of the Treasury to keep a record of payments made and judgments and settlements. By rule, the Secretary is to establish a mechanism for ensuring that payments are made to all entitled in the year which the award was made or in a subsequent year.</p> <p>The press release accompanying the bill suggests that the drafters of the bill intended to include the 80% payment; the bill, as drafted, however, does not clearly establish such a fund and makes no reference to the 20%/80% model.</p>
<p><b>INDUSTRY DOCUMENT DISCLOSURE</b></p>	<p>Creates National Tobacco Document Depository</p> <p>Expands the availability of documents in a public depository for use by plaintiffs in actions against the industry and provides for efficient use of these documents. Requires manufacturers to deposit: 1) all deposition of corporate representatives; 2) depositions of all expert and fact witnesses; 3) answers to interrogatories in all cases; 4) court orders on substantive issues; 5) all documents provided in recent specified lawsuits; 6) all health research documents; 7) document indexes maintained by the industry. Allows manufacturers to determine and withhold documents protected by attorney-client privilege. Requires manufacturers to deposit a detailed, itemized log of privileged documents. Establishes a three-judge federal arbitration panel to settle disputes over making privileged documents public.</p>
<p><b>AGRICULTURE AND RURAL COMMUNITY ASSISTANCE</b></p>	<p>Specifies \$11 billion over 5 years and \$25 billion over 25 years.</p> <p>Includes the LEAF Act sponsored by Senator Ford.</p> <p>Creates Tobacco Community Revitalization Trust Fund from payments by industry</p> <p>The fund pays for lost tobacco, quota, administrative costs of the tobacco program, to tobacco community Economic Development Grants, Farmer Opportunity Grant Program, and the Tobacco Worker Transition Program.</p> <p>Offers farmers opportunity to stop producing tobacco by selling their quotas.</p> <p>Provides tobacco farmers with educational and economic assistance to find another means of living.</p> <p>Provides general immunity for tobacco producers and warehouse owners.</p>
<p><b>NATIVE AMERICANS</b></p>	<p>Provides that the requirements of this Act relating to the</p>

ISSUE	COMMERCE COMMITTEE MARK
	<p>manufacture, distribution, and sale of tobacco products apply on tribal lands. Considers tribes as states for the purposes of eligibility for public health funding. Requires Indian tribes to collect any tobacco excise or sale taxes on non-members of the tribes. The Indian tribe shall remit such taxes to the U.S. Treasury, which shall, in turn remit the taxes to the State in which they were collected.</p>
<p><b>NO STATE OR LOCAL PREEMPTION</b></p>	<p>Allows state and local governments to impose any additional tobacco product control measures that are not inconsistent with the provisions of this Act. However, preemption is imposed in various sections of the Act for certain issues (e.g., packaging and labeling; advertising restrictions; product standards).</p>
<p><b>INTERNATIONAL TOBACCO CONTROL</b></p>	<p>Creates non-profit corporation and provides funds for international tobacco control programs. Prohibits use of federal funds by federal officials to promote U.S. tobacco exports or to seek to remove nondiscriminatory restrictions on tobacco products by foreign countries. Prohibits U.S. employees of tobacco companies from marketing to children overseas. Requires tobacco product exports to carry the same warning labels required on products sold in the U.S.</p>
<p><b>ANTI-TRUST EXEMPTION</b></p>	<p>Antitrust laws of the U.S. do not apply to the joint discussion, consideration, review, action, agreement, or understanding by or among any participating manufacturers, for the purposes of, and limit to --</p> <ul style="list-style-type: none"> <li>(1) entering into and complying with the Protocol, Trust Agreement, or Consent Decree;</li> <li>(2) refusing to deal with a distributor, retailer, or other seller of tobacco products who distributes such products for sale to, or offers for sale or sells such products to, underage persons, or who otherwise fails to comply with the applicable requirements for the Act, the Protocol, or Consent Decree; or</li> <li>(3) submitting an application relating to a plan or program submitted to the U.S. Attorney General for approval that is designed to reduce the use of tobacco products by underage individuals.</li> </ul>
<p><b>MANDATED PASS THROUGH PAYMENTS</b></p>	<p>Requires industry to pass through 100% of payments to cigarette prices and to adopt industry plan to comply with law and protocol.</p>
<p><b>VETERANS</b></p>	<p><b>Includes an Amendment sponsored by Sen. Rockefeller that authorizes the Veteran's Administration to sue liable third parties for reimbursement of paying monthly disability compensation for tobacco-related diseases.</b></p>

---

i. Bill as introduced in the Commerce Committee, 3/31/98. Includes Chairman's amendments and most major amendments. For simplicity, does not include the following amendments: 1) Hutchison's amendment to compensate competitors who must share technology; 2) Hutchison's amendment to require Congressional Review of FDA regulations; 3) Ford's amendment to clarify charts; 4) Kerry's amendment to allow states to use their own funds to supplement federal child care program; 5) Breaux's amendment to allow claimants to be paid by insurance companies if manufacturer cannot pay a claim; 6) Hutchison's amendment to allow states that have reached separate settlements with tobacco companies to opt in to the global settlement; 7) Ford's amendment to apply existing penalties to FDA if documents are released from the depository.

Draft prepared by OMB staff with comments from HHS and DOJ.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:21-APR-1998 14:17:01.00

SUBJECT: Hatch is planning a hearing on smuggling for next Wednesday (the 29th)

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Leahy's staffer called HHS, says that Hatch is planning a pro-industry hearing on smuggling for next Wednesday. Leahy's staffer says they want to be helpful, and want to know who we would recommend as a witness, either inside or outside the Administration. Yikes.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Shannon Mason ( CN=Shannon Mason/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:21-APR-1998 15:09:29.00

SUBJECT: H1-B mtg.

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

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

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

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

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

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

TEXT:

There will be an H1-B Visa Legislation meeting with House staff this  
Friday 4/24 at 2:00pm Room 472 OEOB.  
Please call Shannon at 6-2800 to confirm.  
Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Diana Fortuna ( CN=Diana Fortuna/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:21-APR-1998 16:20:17.00

SUBJECT: Paper on service and progress since service summit

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:

FYI, here's a 1-pager I did on what we've accomplished since the service summit, followed by a 2-page summary of what the federal agencies have done.

I had heard this message would be featured as part of the Earth Day speech, but now I hear we'll just get a paragraph on how great volunteers are in national parks, and we won't release any paper on service. Maybe that's not so bad, since there's no AmeriCorps or Corporation component to the Harpers' Ferry event anyway. Powell is still doing his one-year report to the Mayors in Chicago on Monday. His report will include what federal agencies have done, but not a broader Administration message, of course. Not sure if it's worth it to push for a venue to get this message out in anticipation of Powell -- Steve Silverman would have thrown a fit, but I don't feel like that's warranted since there doesn't seem to be any press interest out there, and we're don't have much news here.

The Service Summit One Year Later -- Promoting Service and Reaching At-Risk Youth

At the Presidents□, Summit for America□,s Future, held one year ago in Philadelphia, hundreds of organizations and communities pledged to serve on behalf on behalf of America□,s children, especially at-risk children. Since then, the Administration has worked to increase the ethic of citizen service, and to ensure that children have access to the summit□,s five key resources -- a caring adult, a safe place, a healthy start, an effective education, and a chance to serve.

Today, the President signed a memorandum to all federal agencies asking them to explore additional ways to expand service opportunities for federal employees. Federal employees are generous with their time and talents in their communities even as they fulfill their responsibilities. The President is asking each department to report within 90 days on actions to support employees who volunteer.

America□,s Promise, led by General Colin Powell, has worked to ensure that promises made last year by corporations and nonprofits are being kept, and has garnered many new commitments in the past year. Hundreds of local communities and states have expanded the work begun at the summit. On Monday, April 27, in Chicago, General Powell will unveil a one-year progress report at a meeting of the U.S. Conference of Mayors.

The President has made the summit's goals a top priority in the past year. For example, the President proposed the new High Hopes Mentoring Program to link colleges and universities to public schools and give at-risk children more opportunities in higher education (summit goal 1); launched a major new Child Care Initiative, including increases in after-school options (summit goal 2); signed into law the Children's Health Insurance Program, the single largest investment in health care for children since the passage of Medicaid in 1965 (summit goal 3); created the America Reads program, using AmeriCorps members, college work-study students, and volunteer tutors to help children learn to read (summit goal 4).

The Administration has added new opportunities for young people to serve their communities to further summit goal 5. At the summit, the President challenged service and religious organizations to offer young people the chance to serve and agreed to provide 50,000 new AmeriCorps scholarships for this purpose over the next 5 years. The response has exceeded our expectations, with over 8,900 scholarships approved, ahead of our first-year plan for 5,000 scholarships. The Corporation for National Service also awarded scholarships to 1,600 high school students with exemplary service records in the first year of the National Service Scholars program, which will grow to as many as 10,000 high schools this year. The President served on Martin Luther King Day as part of an effort to make that holiday a day of service -- a day on, not a day off.

Federal agencies are keeping the commitments they made one year ago at the summit. Led by the Social Security Administration and the Departments of Transportation and Treasury, federal agencies have established new partnerships with more than 250 schools since the summit, with federal employees offering mentoring, tutoring, career education, and computer donations. The attached highlights other agency accomplishments.

#### Federal Agencies Are Taking Action on Service to Children at Risk

Federal agencies have reached out to adopt or establish partnerships with more than 250 schools since the service summit one year ago. The Social Security Administration has led the pack with 147 new school partnerships, while Transportation, Treasury, and Defense have added about 25 partnerships each. Federal agencies and their employees assist their partner schools in a variety of ways, such as mentoring, tutoring, career education, and computer donations. The following are highlights of other agency actions.

**Agriculture** -- Sponsored the first-ever National Summit on Food Recovery and Gleaning. Increased Natural Resource Conservation Service Earth Team's volunteer hours by 18%.

**Commerce** -- The National Oceanic and Atmospheric Administration trained 20 teachers from D.C. schools on how students can use the Internet to study and report scientific data.

**Corporation for National Service** -- Recruited more than 900 colleges and universities to help secure 100,000 work-study students as reading tutors. Launched Seniors in Schools in nine cities for America Reads. Added 15,000 new AmeriCorps positions through community and faith-based organization with emphasis on 5 summit goals. Awarded 1,600 National Service Scholarships for outstanding service, and secured funding for 10,000 scholarships..

**Defense** -- The Army identified 30,000 volunteers in 49 commands reaching

over 1,200 schools through a new policy to expand opportunities for military personnel to volunteer in local schools. The Navy tutored or mentored over 100,000 youth in the 96-97 school year, and reached 50,000 youth through Campaign Drug Free. The Air Force served an additional 700 at-risk youth through the Air Force Reserve Command's STARBASE programs, with more growth planned next year. The Office of the Secretary of Defense increased enrollment in Junior ROTC academies from 1,500 to 4,000 students, and mobilized children of active duty personnel to volunteer, with 10,000 Army youth serving 52,000 hours in January and February of 1998.

Environmental Protection -- Will deploy senior citizen volunteers to make presentations on protecting public health and the environment to more than 13,000 youngsters in 10 states by the end of 1998. Many projects are intergenerational, with students and senior volunteers going out into the field together to conduct drinking water protection activities.

Federal Emergency Management Agency -- Instituted new Spring Break program this spring, when high school students served in five communities cleaning up debris from hurricanes and repairing damage from flooding. Program will grow to over 50 communities in spring of 1999.

General Services Administration -- Worked in partnership with the National Children's Museum on a program to provide tutoring, mentoring, and academic skills for children at risk.

Health and Human Services -- Awarded almost \$1 million in GirlPower grants to communities to prevent teen pregnancy and drug abuse and promote healthy behavior in young girls.

Housing and Urban Development -- Added more than 200 Neighborhood Networks computer learning centers in assisted/ insured housing. Partnered with the NCAA on education camps for 200 youth from public housing in four EZ/EC[ ],s last summer; expanding to 30 cities this summer.

Interior -- Soon to launch the National Park Service's Public Land Corps, to provide service opportunities and outdoor education for young people ages 16-24, while improving resource protection in national parks. The Internet-based National Junior Ranger program will be on-line this fall, for children who are unable to visit our national parks.

Justice -- Funded 52 new Juvenile Mentoring (JUMP) sites; joined with the Army and Navy to expand the Drug Education for Youth (DEFY) program from 3 to 24 sites, which will grow to 42 DEFY camps in 1998 and 60 camps in 1999.

Labor -- Ran a summer enrichment program for 50 elementary and middle school students; most students improved by at least a half grade level after three weeks of math and reading tutoring.

Office of National Drug Control Policy -- Launched National Youth Anti-Drug Media Campaign now running in 12 cities and to be expanded nation-wide in July.

Office of Personnel Management -- Will issue guidance this month on how to support employee participation in community service.

Peace Corps -- Organized more than 5,000 current and returned Peace Corps volunteers to take part in a global education initiative on Peace Corps Day. In just one day, the Peace Corps World Wise Schools program reached

thousands of teachers and hundreds of thousands of students.

School to Work Office -- Organized National Groundhog Shadow Day on February 2, 1998, when 5,000 businesses offered job shadowing opportunities to 125,000 students.

Selective Service System -- Provided its 1.6 million registrants with toll-free numbers on service and volunteering.

Small Business Administration -- Educated more than 35,000 high school and some college students about small business opportunities in partnership with the Senior Corps of Retired Executives (SCORE) and others.

Social Security Administration -- Created 147 new partnerships with schools. Book drive now underway to place books for K-3rd grade children in SSA's 1,300 field offices.

Transportation -- Launched Garrett A. Morgan Technology and Transportation Futures Program to reach one million students through the year 2000 to educate them about careers in technology and transportation. Recruited over 400 education, employee, and transportation organization to be partners in the Morgan program. During National Transportation Week in May, partners will visit at least 1,000 classrooms to talk about transportation careers. As a result of myriad activities, DOT expects to reach 250,000 students by the end of the academic year.

Treasury -- Through February of FY1998, law enforcement officers gave over 200,000 students anti-gang, anti-drug training as part of the "Gang Resistance Education and Training" (GREAT) program, exceeding summit commitment.

Veterans Affairs -- Added service opportunities for over 2,000 students and youth in VA facilities, through volunteer managers who work with school districts to establish partnerships, achieving 40% of its year 2000 summit goal.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:21-APR-1998 17:14:55.00

SUBJECT: Treasury would like to give this backgrounder on price to the New Republic

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

TEXT:

You already have a hard copy, along with the other issue papers.

This one is very straightforward -- a review of the studies, in an attempt to prove that price does reduce youth smoking.

Do you see any problem with letting this one out?

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

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D72]MAIL48451701B.126 to ASCII,  
The following is a HEX DUMP:

FF5750436D0B0000010A020100000002050000008A410000000200000491758CD3C8C2E2B25BD63  
5A2F69111FD743AC29650037F33966582A334194EB1E6F709B90B689E11721F192CE4EA52A808F

April 20, 1998

## Background on Youth Smoking Elasticity Estimates

### The Treasury Model

- The Treasury model of youth smoking starts from a participation elasticity of -0.7 at the current price level of about \$1.95 — which means that a 10% increase in price above its current level would reduce the number of teen smokers by 7%.
- But this relationship only holds for very small price changes. For larger and larger price increases, the Treasury model predicts somewhat smaller proportional reductions in teen smoking. This reflects the fact that the teens most likely to respond to price signals are also the first to be discouraged from smoking by a price increase.
- Using this model, a \$1.10 increase in the real price of cigarettes is projected to reduce youth smoking by 32.4%. Since a \$1.10 increase in the real price in 2003 represents a 54% rise, the associated “average” elasticity is actually -0.6.<sup>1</sup>

### Previous Academic Studies

- A number of studies have attempted to estimate the responsiveness of youth smoking in the U.S. to price changes — the participation elasticity, or the change in the number of teen smokers due to price changes. This literature is based on comparisons of youth smoking rates in high and low tax states, and on how youth smoking changes within states as tax rates change.
- The CBO recently summarized this literature by stating that most of the evidence points to participation elasticities ranging from -0.50 to -0.75. **The Treasury estimate is in the range used by the CBO.**
- The results from this literature are shown in the Table below. Because differences in elasticity estimates may be less intuitive, the table below shows — for each analysis of youth smoking — the projected reduction in teen smokers from a \$1.10 price increase (along with the Treasury estimates). Doing so recognizes the fact that the Treasury model allows the elasticity to decline for larger price increases.

---

<sup>1</sup>The semi-logarithmic demand function underlying this analysis is based on a standard model used to predict overall cigarette demand. Under it, every dime (\$0.10) increase in price reduces demand by the same percent, but since it is doing so from a smaller and smaller base at each step, the absolute reduction in teen smoking from each 10 cent increment declines slightly.

Study of Teen Smoking	Percent Reduction in Teen Smoking from \$1.10 Real Price Increase
Lewit, Coate, and Grossman (1981)	65%
DeCicca et al. (1998)	46%
Grossman et al. (1983)	41%
Chaloupka and Grossman (1996)	36%
CBO (midpoint)	34%
<b>Treasury</b>	<b>32%</b>
Evans and Huang (1997)	28%
Wasserman et al. (1991)	0-9%

- It is clear that the Treasury estimate is within the range of professional consensus on this question. Indeed, our estimates are more conservative than most of the recent work in this area.
- One study which estimates a response appreciably different from the remainder of the literature (Wasserman et al.) focuses exclusively on the late 1970s. This was a period during which some surveys indicate that youth smoking fell precipitously despite no price increase. We believe a more appropriate interpretation of the data during the late 1970's was that youth smoking was driven down by the broader dissemination of facts about smoking's dangers. In 1975 only half of 12th graders saw a great risk in smoking a pack or more of cigarettes a day — the lowest level in the survey — but this number increased by nearly 25% between 1975 and 1980. Thus, rather than indicating that price does not affect youth smoking, we believe this data shows that other things can influence teens *in addition to price*.
- This same problem has led to a misinterpretation by some of the Evans and Huang paper. As Professor William Evans of Maryland pointed out in a recent letter to the Commerce Committee, the findings of his paper have been misquoted. *As noted in the Table above, the estimate that Evans endorses is very close to the Administration estimate.* The confusion over his findings arises from the fact that his estimates which include data from the late 1970s show a smaller youth elasticity than his estimates which focus on the 1980s and 1990s. As Prof. Evans has noted, however, the data are less reliable for this earlier period; in addition, as noted above, this was an era when non-price factors were driving teen smoking down in the face of constant prices.

### **The Cornell Study**

- Some have cited the recent study by DeCicca et al. as refuting the previous literature. In

fact, this study finds higher estimates than the remainder of the literature when similar estimation techniques are used on their full sample of 8th-12th graders.<sup>2</sup>

- The study does find smaller effects when they choose the particular sample of 12th graders who weren't smoking in 8th grade, and model whether they start smoking. But there is no obvious explanation for this anomalous result; after all, removing from their model a population that is more addicted to cigarettes (individuals smoking from 8th to 12th grade) should *raise*, not *lower*, the elasticity estimate. It is troubling that dropping the 5% of their sample that is most addicted reduces their estimate so dramatically.
- One criticism levied by DeCicca et al. against the earlier literature is that it does not control for differences across states that might determine youth smoking propensities; low tax states may have high smoking because of other regulatory or cultural factors. But their approach does not address this problem: their estimates of the effect of taxes on 12th graders who didn't smoke in eighth grade are still based on a simple comparison of high to low tax states. Other studies do directly address this problem. Chaloupka and Grossman (1996) do so by including a variety of state characteristics, including state anti-tobacco regulations. Evans and Huang (1997) address the problem even more directly by examining only the effect of within-state price changes on youth smoking. The fact that these estimates are so similar highlights the robustness of the conclusions, and indicates why the previous scientific consensus is not undermined by one set of anomalous results.

### **International Evidence**

- There has also been much recent attention paid to the fact that youth smoking remains high in other countries with much higher cigarette prices. In particular, Wall Street analyst Martin Feldman noted in his testimony of March 19th that youth smoking rose in the U.K. between 1988 and 1996, despite a 26% rise in the real price of cigarettes. The inference that is often drawn from this type of evidence is that higher prices won't deter youth smoking in the U.S.
- But *these international comparisons are not informative for the response of youth in the U.S. to price changes*. The fact that youth smoking rates remain high in other countries reflects other cultural factors that influence youth to smoke, and not a rejection of the fundamental relationship between price and demand. And increased smoking among youth in the U.K. between 1988 and 1996 may have more to do with other factors, such as a recession which raised youth unemployment rates by 25% over this period, than with changes in the price of cigarettes.
- In light of this concern, it is certainly preferable to rely on careful, peer-reviewed analysis

---

<sup>2</sup>The estimate cited in our Table is an average of their elasticities for 8th, 10th, and 12th graders.

in the U.S. than on this type of anecdotal international evidence.

- Nevertheless, if one is going to make international comparisons, then the most appropriate one would be to Canada, since it is more similar to and faces many of the same cultural influences as the U.S. The two economic studies which estimate the effects of cigarette prices on Canadian teens are both consistent with the findings in the U.S. literature — teens are not only responsive to price changes, but they are more responsive than adults. In fact, the Canadian youth elasticity estimates are higher than those for the U.S.
- Moreover, the pattern of youth smoking in Canada confirms the sensitivity of youth to price changes. In 1981, Canada had a youth smoking rate that was about 50% higher than that in the U.S. *Over the next decade, Canada raised its cigarette prices by over 100%, and teen smoking fell by almost half* -- despite no substantial change in teen smoking rates in the U.S. -- so that by 1991 there were fewer teens smoking in Canada than in the U.S. The implied elasticity of -0.42 is very close to the estimate that would be computed by the Treasury model (which allows the price responsiveness to fall as the magnitude of the price increase grows) for this price rise, which is -0.48.
- Teen smoking then rose again in Canada between 1991 and 1994, as Canada lowered dramatically its federal excise taxes. Of course, teen smoking was on the rise in the U.S. over this period as well, so that the rise in Canada over this time period is not as easily attributable to price impacts. But the fact remains that *for the country most comparable to the U.S., teen smoking rates fell as prices rose, and rose as prices fell.*

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Diana Fortuna ( CN=Diana Fortuna/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:21-APR-1998 17:55:58.00

SUBJECT: Hearing on SSI reforms

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 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:

FYI, Rep. Shaw held a hearing today on SSI as a high risk program. He is working on a package of proposals to toughen up on fraud and overpayment, a few of which cross the line into reducing benefits. SSA testified on what it's doing, and would also like our clearance of its bill to do things similar to Shaw -- tougher fraud penalties, more access to financial information about beneficiaries to prevent overpayments, etc. -- so we are working with OMB to evaluate them. If the radio address is still on, maybe they'll fit in there. Shaw may want to attach some of his proposals later this month to a "return to work" bill for people with disabilities that has no funding source at the moment.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Leanne A. Shimabukuro ( CN=Leanne A. Shimabukuro/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:21-APR-1998 18:04:11.00

SUBJECT: crime meeting

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

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

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

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

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

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

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

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

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

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

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

TO: Christopher S. Lehane ( CN=Christopher S. Lehane/O=OVP @ OVP [ UNKNOWN ] )  
READ:UNKNOWN

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

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

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

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

READ:UNKNOWN

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

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

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

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

TO: Tracey E. Thornton ( CN=Tracey E. Thornton/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: Essence P. Washington ( CN=Essence P. Washington/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TEXT:  
MEMORANDUM TO DISTRIBUTION LIST

FROM: Bruce Reed  
Assistant to the President for Domestic Policy

SUBJECT: April 22, 1998 CRIME MEETING

On Wednesday, April 22 at 10:00 AM in Room 211 of the Old Executive Office Building, we will hold the weekly crime meeting.

Thank you.

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003. email	Diana Fortuna to Elean Kagan. Subject: favor (1 page)	04/21/1998	Personal Misfile

### COLLECTION:

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

### FOLDER TITLE:

[04/20/1998 - 04/21/1998]

2009-1006-F  
ke734

### 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: Todd A. Summers ( CN=Todd A. Summers/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:21-APR-1998 18:33:06.00

SUBJECT:

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's a draft of the memo to Erskine asking him to call Scott. Sandy asked that I run it by you before taking it over. Let me know if you have comments/suggestions!

Todd

-----

MEMORANDUM FOR ERSKINE BOWLES

From: Sandra L. Thurman  
Director, Office of National AIDS Policy  
(202) 632-1090

Date:

Re: Recommended Call to Dr. Scott Hitt

A meeting was held earlier this afternoon with Bruce Reed, Elena Kagan, Chris Jennings, Maria Echaveste, and others to discuss some actions in response to community concerns about needle exchange. Part of the strategy developed was for a series of phone calls to be made to key constituencies to discuss the Administration's decision.

We would appreciate it if you would call Dr. Scott Hitt, Chair of the President's Advisory Council on HIV/AIDS. Dr. Hitt has been publicly critical of the decision (see attached). We believe the message to Dr. Hitt should be as follows:

1. The scientific determination made by the Secretary was an extremely important step in gaining local approval for needle exchange programs.
2. In the final days before the announcement by the Secretary, it became increasingly clear to us that a decision to provide funding would have cost us support on other key AIDS programs and was not likely to survive threatened Congressional attempts to make the funding ban permanent.
3. We are going to look at some of the other ways in which the Administration can be more supportive of local folks making decisions around needle exchange. We are also going to see what we can do to ratchet up our efforts on drug treatment.

If you would like to discuss any of these further, please don't hesitate to contact me.

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
004. email	Phone No. (Partial) Pager No. (Partial) (1 page)	04/21/1998	P6/b(6)

### COLLECTION:

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

### FOLDER TITLE:

[04/20/1998 - 04/21/1998]

2009-1006-F  
ke734

### 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]

Dr. Hitt can be reached tomorrow at the following numbers:

Home:

P6/(b)(6)

[004]

Pager:

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:21-APR-1998 19:36:03.00

SUBJECT: H1B meeting with Members

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,

Peter is setting up a meeting between himself, you, Sally and Representatives Lamar Smith, Mel Watt and Zoe Lofgren to discuss what the Administration wants to be included in H1B visa legislation. They are not interested in getting specific language from us; rather, they want our positions on (1) size and duration of the increase in the cap; (2) training; (3) H1B reforms; and (4) the application fee. This meeting will likely take place on Thursday. Once the date/time is firm, Peter will call Laura to coordinate with your schedule.

As you know, our objective is to get strong reform language in the House bill. With the exception of the Department of Commerce, all of the agencies have agreed on both recruit & retain and no lay-off language. In general, Commerce is uncomfortable with too much discretion being given to the Secretary of Labor to "second-guess" the recruitment and the lay-off decisions of employers. We are working with Labor and Commerce on a compromise.

Attached is a version of where we are with the language as of today. As you will see, we include a proposal for a new visa category that applies only to very highly skilled science, engineering and math grads. All agreed that this is an alternative that we could present. I will update you on the rest as we go. Thanks.

Julie

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

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

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D77]MAIL44090801V.126 to ASCII,  
The following is a HEX DUMP:

FF575043C8040000010A020100000002050000006731000000020000C2441214107410BB720960  
1AF3034D2E74BA7799826F97DEE5BD70502AB8562B47B792B5AEF42FC8478D9BB58CD9C2DB187E

April 20, 1998

**Administration Position Regarding H-1B Legislation  
(based on DPC/NEC Deputies Meeting, April 17, 1998)**

The Administration has committed to pursuing both reforms to the H-1B visa program and increased training opportunities for U.S. workers as part of any legislation that would temporarily raise the annual cap on H-1B visas. The following represents the Administration's position on major reforms and training initiatives (with the Department of Commerce dissenting on Sections I and II).

**I. Recruitment of United States Workers Prior to Seeking Nonimmigrant Workers**

(a) IN GENERAL -- Section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)) is amended by inserting at the end the following new subparagraph:

(E)(i) The employer, prior to filing the application, has taken timely and significant steps to recruit and retain sufficient U.S. workers in the specialty occupation in which the non-immigrant whose services are being sought will be employed. Such steps shall include good faith recruitment in the United States using procedures that are standard practice within the industry (e.g., wide-spread advertising of all job openings (such as through America's Job Bank, the Internet, general circulation publications, professional journals and magazines, or job fairs), or providing meaningful monetary incentives (such as paying above the prevailing wage or paying bonuses and training subsidies not included in the base compensation package)), and offering compensation as required by subparagraph (A) and such good faith recruitment must be unsuccessful.

(ii) The recruitment requirements of this subparagraph shall not apply to aliens with extraordinary ability, aliens who are outstanding professors and researchers, and certain multinational executives and managers described in section 203(b)(1). The recruitment requirements of this subparagraph shall also not apply to a scientist, mathematician, or engineer who has attained at least a master's degree or its equivalent in a scientific discipline, and who is coming temporarily to the United States to participate in a cooperative joint scientific activity carried out under an Agreement between the Federal Government and the alien's Government.

(b) WAGE COMPARABILITY -- Section 212(n)(1)(A)(I) of such Act is amended by inserting "(including the value of benefits and additional compensation)" after "wages." Section 212(n)(1)(A)(I)(I) is amended by inserting "(including the value of benefits and additional compensation)" after "actual wage level."

**II. Non-displacement of United States Workers**

Section 212(n) of the Immigration and Nationality Act (8 U.S.C. 1182(n)), as amended by section 5, is amended by adding at the end the following new paragraph:

(4)(A) The employer --

(I) has not, within the 6-month period prior to the filing of the application, laid off or otherwise displaced any United States worker (as defined in subparagraph (B)), including a worker obtained by contract, employee leasing, temporary help agreement, or other similar basis, who has substantially equivalent qualifications and experience [**CHECK with BILL M.**] in the specialty occupation in which the nonimmigrant is intended to be (or is) employed; and

(ii) will not lay off or otherwise knowingly displace, during the 90-day period following the filing of the application, or during the 90-day period immediately preceding and following the filing of any visa petition supported by the application, any United States worker, including any worker obtained by contract, employee leasing, temporary help agreement, or other similar basis who has substantially equivalent qualifications and experience in the specialty occupation in which the nonimmigrant is intended to be (or is) employed.

(B) For purposes of this subsection, the term "United States worker" means --

- (I) a citizen or national of the United States
- (ii) an alien lawfully admitted to the United States for permanent residence; or
- (iii) an alien authorized to be employed by this Act or by the Attorney General.

(C) For purposes of this subparagraph, the term "laid off," with respect to an employee, means the employee's loss of employment, other than a discharge for cause or a voluntary departure or voluntary retirement. The term "laid off" does not apply to any case in which employment is relocated to a different geographic area and the affected employee is offered a chance to move to the new location with the same wages and benefits, but elects not to move to the new location.

(D) If during the six month period prior to filing an application for an H-1B worker an employer of more than 100 U.S. employees lays-off more than 10% of its U.S. workforce or 500 people (whichever is fewer), the employer will not be eligible to apply for H-1B workers unless it demonstrates to the Department of Labor that it is not seeking employees through the H-1B program in the same specialty occupation(s) as those U.S. workers laid-off.

### **III. Job Contractors**

In the case of an employer that is a job contractor (within the meaning of regulations promulgated by the Secretary of Labor to carry out this subsection), the contractor will not place any H-1B employee with another employer unless such other employer has executed an attestation that the employer is complying and will continue to comply with the requirements of this paragraph in the same manner as they apply to the job contractor.

### **IV. Enforcement**

#### **(a) Independent Authority to Investigate**

**Section 212(n) of the Immigration and Nationality Act (8 U.S.C. 1182(n)) is amended**

—  
**(1) in paragraph (2)(A), by striking the first sentence and inserting the following: “The Secretary shall conduct an investigation where there is reasonable cause to believe that an employer has made a misrepresentation of a material fact on a labor condition attestation or has failed to comply with the terms and conditions of an application submitted under paragraph (1) or with the provisions of this section or any rule or regulation pertaining to this section. The Secretary shall establish a process for the receipt, investigation, and disposition of complaints or other cases of noncompliance with this section.”**

**(2) in paragraph (2)(C), by inserting “or that the employer failed to cooperate in the conduct of the Secretary’s investigation or has intimidated, discharged, or otherwise discriminated against any person because that person has asserted a right or has cooperated in an investigation under this paragraph” after “a material fact in an application.”**

**(b) Subpoena Authority**

**(5) in paragraph (2), by adding at the end the following new subparagraph:**

**“(E) The Secretary may issue subpoenas requiring the attendance and testimony of witnesses or the production of any records, books, papers, or documents in connection with any investigation or hearing, conducted under this paragraph. In conducting a hearing, the Secretary may administer oaths, examine witnesses, and receive evidence. For the purpose of any hearing or investigation provided for in this paragraph, the authority contained in sections 9 and 10 of the Federal Trade Commission Act (15 U.S.C. 49 and 50), relating to the attendance of witnesses and the production of books, papers, and documents, shall apply.”**

**V. Application Fee**

**“(3)(A) The Secretary of Labor shall require payment of a fee by the employer for each position for which an application is filed under this subsection. The fee shall be in an amount prescribed by the Secretary of Labor, and shall be paid to the Department of Labor.**

**“(ii) During the period ending September 30, 2001, such a fee shall not exceed \$250 for each position.”**

**“(v) It shall be unlawful for an employer to require, as a condition of employment by such employer, that the fee prescribed under this paragraph or any part of the fee, be paid directly or indirectly by the alien whose services are being sought.”**

**VI. Training**

The Administration strongly supports the creation of Regional Skills Alliances and expansion of the National Science Foundation (NSF)'s advanced technical education programs. The Administration does not support providing scholarships or loans to individuals, including the expansion of the State Student Incentive Grant (SSIG) program.

#### **VII. New Visa Category Proposal**

**A new program (H-1C) that creates temporary visas for use only by non-immigrants with very high skill levels. In particular:**

- **The program would be authorized for four years beginning in FY1998.**
- **There would be a maximum of 25,000 visas for FY1998, FY1999, and FY2000, and a maximum of 15,000 visas for FY2001.**
- **Only employers whose number of H-1B and "H-1C" employees in the prior year constitutes no greater than one-half of their U.S. based workforce are eligible to apply.**
- **Only individuals with a minimum of a master's degree (or equivalent) in math, science, or engineering are eligible for an H-1C visa.**
- **Requires a \$500 fee for each position for which an application is filed for training, enforcement, and administration of the program.**
- **The "H-1C" visas would be issued a 3-year period, renewable for an additional 3 years.**
- **All of the requirements of the "H-1C" visa program would be the same as would exist under the reformed H-1B program.**

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:21-APR-1998 20:20:59.00

SUBJECT: Crime Meeting Agenda

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

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

TO: Michelle Crisci ( CN=Michelle Crisci/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.D42]MAIL406428010.126 to ASCII,  
The following is a HEX DUMP:

FF575043B0040000010A0201000000020500000006E0D00000002000052969F35C0A830B705F709

## **Crime Meeting Agenda April 22, 1998**

### **Pending Events**

- \* Juvenile violence roundtable Friday, April 24
  - Release gun-free schools report?
  - Participants -- Rubin invite
  - Press

### **Legislative Update**

- \* Juvenile crime
- \* Status on victims rights amendment hearing
- \* Gingrich drug strategy April 30th
- \* Child Protection and Sex Predator Act - House subcommittee hearing April 23

### **Other Potential Events**

- \* COPS pilot waiver announcement -- \$75,000 cap will not be lifted.
- \* April 25th radio address on prisoner benefits fraud (tentative)
  - Possible victims photo op
- \* VP crime technology event -- possibly mid-May (police week)
- \* Drug courts speech June 4th -- possible release of CASA Report

### **Miscellaneous/ Pending Items**

- \* Any other pending events/releases -- DOJ Reports
- \* May 25 -- Missing Children's Day
- \* Peace Officers Memorial May 15 -- VP -- need announcement

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Minyon Moore ( CN=Minyon Moore/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:21-APR-1998 20:47:46.00

SUBJECT: WEEKLY PIR/WH COORDINATING COMMITTEE MEETING

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

TO: Broderick Johnson ( CN=Broderick Johnson/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: Michele Cavataio ( CN=Michele Cavataio/OU=PIR/O=EOP @ EOP [ PIR ] )  
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: Beverly J. Barnes ( CN=Beverly J. Barnes/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

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

TO: Dario J. Gomez ( CN=Dario J. Gomez/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: Janelle E. Erickson ( CN=Janelle E. Erickson/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: 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: Cheryl D. Mills ( CN=Cheryl D. Mills/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

TEXT:

I am extremely sorry for the short notice, but due to the PIR Housing event on Thursday, we will hold our weekly PIR/WH coordinating meeting on tomorrow (Wednesday, April 22nd at 3:00 p.m. in room 180) YOUR ATTENDANCE OR A REPRESENTATIVE IS IMPORTANT...THANKS FOR YOUR UNDERSTANDING! The meeting should be short.

AGENDA:

HUD/PIR ROUNDTABLE DISCUSSION ON FAIR HOUSING OVERVIEW

STATUS REPORT ON STATEWIDE DAYS OF DIALOGUE

STATUS REPORT ON LEADERS OUTREACH PROGRAM

UPCOMING EVENTS/WHITE HOUSE REPORTS

THANKS ONCE AGAIN!