

NLWJC - KAGAN

EMAILS RECEIVED

ARMS - BOX 080 - FOLDER -001

[07/09/1998 - 07/13/1998]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 9-JUL-1998 07:14:12.00

SUBJECT: Weekly Tobacco Strategy Meeting

TO: marti.thomas (marti.thomas @ ms01.do.treas.sprint.com @ inet [UNKNOWN])
READ:UNKNOWN

TO: Grundman-Stacey (Grundman-Stacey @ dol.gov @ inet [UNKNOWN])
READ:UNKNOWN

TO: sheketoff-emily (sheketoff-emily @ dol.gov @ inet [UNKNOWN])
READ:UNKNOWN

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

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

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

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

TO: DAILARD_C (DAILARD_C @ A1 @ CD @ VAXGTWY [UNKNOWN]) (OPD)
READ:UNKNOWN

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

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

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

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

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

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

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

TO: Jennifer.moore (Jennifer.moore @ justice.usdoj.gov @ inet [UNKNOWN])
READ:UNKNOWN

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

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

READ:UNKNOWN

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

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

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

TO: MARR_C (MARR_C @ A1 @ CD @ VAXGTWY [UNKNOWN]) (OPD)
READ:UNKNOWN

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

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

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

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

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

CC: haverkamp_jennifer (haverkamp_jennifer @ ustr.gov @ INET @ VAXGTWY [UNKNOWN])
READ:UNKNOWN

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

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

CC: MURRAY_MM (MURRAY_MM @ A1 @ CD @ VAXGTWY [UNKNOWN]) (WHO)
READ:UNKNOWN

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

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

TEXT:

This meeting is scheduled for Thursday, July 9, at 2:45 in Room 100 of OEOB.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 9-JUL-1998 09:49:05.00

SUBJECT: Shogren

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

TO: Elliot J. Diringer (CN=Elliot J. Diringer/OU=CEQ/O=EOP @ EOP [CEQ])
READ:UNKNOWN

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

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

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

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

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

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

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

TEXT:

Liz Shogren is working on a long-term piece on our use of executive actions (such as those we're featuring this week) to implement policy. She's looking for some technical details, but what she really wants to do is take some examples of what we've done, look at what we did, a bit on how we did it, what the impact was, and how we keep track of that impact.

Rahm, Bruce, Elena -- You're probably in the best position to decide what examples I want to cite to her that tell the story best. Let's talk.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 9-JUL-1998 12:33:48.00

SUBJECT: H1B

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

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

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

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

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

TEXT:

I just heard from Watt's staffer (Tina Hone) and the DOL that Abraham is announcing a deal with industry next week. Industry was supposed to meet with Smith today or tomorrow, and has called off the meeting. Neither Tina nor Labor had any idea what this deal looks like, except that it contains something that says "attestation" but is very weak. According to Tina, George Fishman (Smith's staffer) is going to call us to ask for a veto statement.

Julie

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 9-JUL-1998 13:10:20.00

SUBJECT: Re: Here's the latest version of the price paper

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:

This is the latest version of the Treasury price paper -- available for our use when we need it.

Cynthia A. Rice

07/07/98 05:39:19 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Cynthia Dailard/OPD/EOP

cc:

Subject: Here's the latest version of the price paper

It's a bit nerdy (footnotes and all) but I think that would serve our purposes -- it will help us make the case that there is overwhelming evidence that price increases will reduce youth smoking.

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D4]MAIL41963598Q.126 to ASCII,

The following is a HEX DUMP:

FF5750433D180000010A0201000000020500000006B810000000200003776A8A935C26BE32760F8
C0787CCF0C652A1DA973B79962E739F20F274BD45D07F03E8F68ACF559A4C57BBE326A0B3AB2D2

A Comprehensive Approach to Reducing Youth Smoking

Department of the Treasury Analysis

Over 3 million teenagers smoke cigarettes on a daily basis in the United States. An additional 2 million smoke on a less than daily basis, but are at risk of becoming chronic daily users.

- The most recent data show that 25 percent of high school seniors were daily smokers; another 12 percent smoked on a less than daily basis. In addition, underage youth smoking has been on an upward trend — smoking rates among high school students rose by nearly a third between 1991 and 1997, from 27.5 percent to 36.4 percent.

Reducing youth smoking is the best way to reduce the overall incidence of smoking in the future; 90 percent of adult daily smokers first begin smoking cigarettes as teenagers.

The most reliable method for reducing teen smoking is to increase the price of cigarettes.

- Recently released tobacco company documents demonstrate that the tobacco industry has known for years that youths are very responsive to price. A 1981 Philip Morris memo analyzed the research and concluded “it is clear that price has a pronounced effect on the smoking prevalence of teenagers.”
- A large number of rigorous economic studies have shown that teen smoking is responsive to changes in the price of cigarettes. A consensus view is that the number of teen smokers declines by about 7 percent for a 10 percent increase in the real price of cigarettes.¹
 - This relationship represents the response for a very small change in prices. Our model allows the responsiveness to decline as prices rise, since the smokers that remain at high prices have revealed that they are less responsive to price signals.

Additional efforts beyond price changes can help to reduce youth smoking — such as eliminating vending machines, enforcing restrictions on sales to youths, eliminating advertising aimed at youths, and anti-smoking counter-advertising.

- Studies have shown that fully-enforced sales restrictions have successfully led to reductions in youth smoking, particularly for younger teens.
 - A 1991 study in the *Journal of the American Medical Association* reported a 69 percent decline in daily use by seventh and eighth graders in Woodridge, Illinois following legislation and enforcement of restrictions on cigarette sales to minors.²

¹Chaloupka, F., and M. Grossman, “Price, Tobacco Control Policies, and Youth Smoking,” NBER Working Paper #5740, 1996.

²Jason, L. A., P. Ji, M. Anes, S. Birkhead, “Active Enforcement of Cigarette Control Laws in the Prevention of Cigarette Sales to Minors,” *Journal of the American Medical Association*, Vol. 266, no. 22, December 11, 1991, pp. 3159-3161.

- A 1992 study in *Tobacco Control* reported a 44 percent decline in junior high school students' smoking in Leominster, Massachusetts as a result of strictly enforced sales restrictions.³
- A recent working paper comparing the effectiveness of state and local access restrictions estimates that comprehensive access restrictions for youth can lower youth smoking by 18%.⁴
- A number of experts in this area suggest that a conservative assumption for the impact of comprehensive sales and marketing restrictions is a 10-20% reduction in youth smoking. Based on their opinion and the existing literature, we use 15% in our estimates.

Hence, a coordinated effort of sizeable price increases and fully-enforced access and advertising restrictions would be more likely to produce a significant and sustained decline in youth smoking than either policy by itself.

- The Administration's Budget proposal calls for a significant increase in the real price of cigarettes over the next five years. Coupled with comprehensive sales and advertising restrictions, that price increase will lead to about a 42 percent reduction in underage teen smoking in five years.
- In 2003 alone, the number of young people kept from smoking would be about 1.6 million teens.
- Over the next five years, the total number of young people kept from smoking would be about 3 million teens.
- The direct result of these policies over the next five years is that about 1 million of today's young people will be spared from premature deaths resulting from smoking-related diseases.

These estimates illustrate the powerful impact of a combination of price increases and access/marketing restrictions on youth smoking. But there remains some uncertainty in our estimates of the impact of these policies.

- That is why the President has also called for youth smoking penalties on the tobacco industry if they do not meet targeted reductions in youth smoking. These penalties will help to ensure that we meet our youth targets.

³DiFranza, J.R., R.R. Carlson, R.E. Caisse, "Reducing Youth Access to Tobacco," *Tobacco Control*, 1992.

⁴Chalupka, F., and R.L. Pacula, "Limiting Youth Access to Tobacco: The Early Impact of the Synar Amendment on Youth Smoking," Working Paper, University of Illinois-Chicago, January, 1998.

These estimates are based on daily smoking. Because underage teen smoking on less than a daily basis frequently leads to daily smoking and the subsequent risk of death and disease, the figures understate the total benefits of these policies.

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%. Since a \$1.10 increase in the real price in 2003 represents a 53% rise, the associated “average” elasticity is actually -0.6.⁵

Industry Views Validate Administration Analysis

- Recently released internal documents from Philip Morris demonstrate that the tobacco industry has known for years that youths are very responsive to price.
- A memo from 1981 documents that the tobacco industry understands the compelling evidence that youths are very price responsive. This document is a review of the 1981 working paper by Lewit, Coate, and Grossman, discussed below. This industry review is very favorable, and does not question this substantial estimate of youth price responsiveness. As the memo states, “The authors of this paper ... have constructed an elegant longitudinal and cross-sectional model of teenage smoking behavior... The most important finding, and the one of greatest significance to the company, is their calculation of the price elasticity of cigarettes among teenagers.”
- This memo goes on to state “... it is clear that price has a pronounced effect on the smoking prevalence of teenagers, and that the goals of reducing teenage smoking and balancing the budget would both be served by increasing the Federal excise tax on cigarettes.”

⁵The 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.

- Internal industry analyses also validate the relevance of the Canadian example discussed below. Another Philip Morris strategic planning document from the early 1990s states: “There is no question that increasing taxes will cause a decrease in smoking. This point is best illustrated by the present situation in Canada.”
- In another document dated September 3, 1987, a Philip Morris analysis of price increases concluded: “price increases . . . prevented 600,000 teenagers from starting to smoke . . . We don’t need to have that happen again.”

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 changes in youth smoking 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 shows — for each analysis of youth smoking — the projected reduction in teen smokers from a \$1.10 price increase (along with the Treasury estimates). This approach recognizes the fact that the Treasury model allows the elasticity to decline for larger price increases.

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%
Treasury	32%
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 what most of the recent work in this area would suggest.
- One study which estimates a very different response from the remainder of the literature (Wasserman et al.) focuses exclusively on the late 1970s. During this period some surveys indicate that youth smoking fell precipitously without a price increase. We believe a more appropriate interpretation of the data during the late 1970's is that youth smoking was driven down by the broader dissemination of facts about smoking's dangers. According to one major survey, only half of 12th graders saw a great risk in smoking a pack or more of cigarettes a day in 1975 — 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 stands behind 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 standard estimation techniques are used on their full sample of 8th-12th graders.⁶
- The study does find smaller effects when they choose the particular sample of 12th graders who weren't smoking in 8th grade, and try to 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 only 5% of their sample — the 5% of teens that are most addicted — reduces their estimate so dramatically.

⁶The estimate cited in our Table is an average of their elasticities for 8th, 10th, and 12th graders.

- The explanation for this anomalous finding is fundamental problems with their empirical methodology. A recent re-analysis of their data by Professors Thomas Dee of Georgia Tech and William Evans of Maryland has found these results to be very sensitive to the particular sample restrictions imposed by the Cornell authors. As these experts note, “The results appear to be purely an artifact of the way that the authors constructed the analysis sample.” When a broader sample of observations is used, there is a very significant effect of taxes on youth smoking in their onset model -- indeed, the results are quite comparable to the previous literature.
- This partly explains why the results of the Cornell study are so statistically imprecise. For example, in this particular model, they estimate that a \$1.10 price rise would reduce smoking onset by only 7%. However, given the level of statistical imprecision in their model, their findings would be equally consistent with a reduction in youth onset of 50% or more from this \$1.10 price increase — a range which encompasses the Treasury estimate, as well as their own estimates using a more straightforward methodology.
- One criticism levied by DeCicca et al. against the earlier literature is that it does not control for differences across states at a point in time 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 solve this problem; it still relies on point-in-time comparisons of smoking onset across states, making it difficult to separate out other differences across those states. Other studies address this problem much more directly. 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 to that used by Treasury 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 do not tell us much of anything about 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 is 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, controlled analysis of U.S. teen smoking 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 during the 1980s confirms the sensitivity of youth to price changes.
- In 1981, youth smoking was pervasive in Canada -- 43.5% of Canadian teen were current smokers (defined as having smoked in the last thirty days). The youth smoking rate during this period was about 50% higher than in the U.S.
- Over the next decade, Canada significantly increased the price of cigarettes. From 1981 to 1989, the price increased by about 90%. It is worth noting that these price increases occurred without significant smuggling; the widely cited smuggling episode from Canada did not occur until 1992-1993, when cigarette prices had risen by more than \$1.50 above their 1989 level.
- These price increases were associated with enormous declines in teen smoking. From 1981 to 1989, current Canadian teen smoking rates fell from 43.5% to 22.6%, a decline of almost fifty percent. During this period there were no substantial change in teen smoking rates in the U.S., so by 1991 Canada's teen smoking rate was lower than ours.
- The implied Canadian elasticity of -0.52 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 large a price rise, which is an elasticity of -0.51. The large declines in Canadian youth smoking rates represent largely the impacts of price increases, as opposed to other public policies designed to curb teen smoking. From 1981 to 1989, Canada did not impose any significant public health policy changes designed to reduce teen smoking.
- In the early 1990s, smuggling did become a problem in Canada, and the government lowered dramatically its federal excise taxes. As a result, between 1991 and 1994 teen smoking began to rise again in Canada. Of course, teen smoking was on the rise in the U.S. over this period as well, so it is not as easy to attribute all of the rise in Canada over this time period 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.*

A Comprehensive Approach to Reducing Youth Smoking

Department of the Treasury Analysis

Over 3 million teenagers smoke cigarettes on a daily basis in the United States. An additional 2 million smoke on a less than daily basis, but are at risk of becoming chronic daily users.

- The most recent data show that 25 percent of high school seniors were daily smokers; another 12 percent smoked on a less than daily basis. In addition, underage youth smoking has been on an upward trend -- smoking rates among high school students rose by nearly a third between 1991 and 1997, from 27.5 percent to 36.4 percent.

Reducing youth smoking is the best way to reduce the overall incidence of smoking in the future; 90 percent of adult daily smokers first begin smoking cigarettes as teenagers.

The most reliable method for reducing teen smoking is to increase the price of cigarettes.

- Recently released tobacco company documents demonstrate that the tobacco industry has known for years that youths are very responsive to price. A 1981 Philip Morris memo analyzed the research and concluded "it is clear that price has a pronounced effect on the smoking prevalence of teenagers."
- A large number of rigorous economic studies have shown that teen smoking is responsive to changes in the price of cigarettes. A consensus view is that the number of teen smokers declines by about 7 percent for a 10 percent increase in the real price of cigarettes.¹
 - This relationship represents the response for a very small change in prices. Our model allows the responsiveness to decline as prices rise, since the smokers that remain at high prices have revealed that they are less responsive to price signals.

Additional efforts beyond price changes can help to reduce youth smoking -- such as eliminating vending machines, enforcing restrictions on sales to youths, eliminating advertising aimed at youths, and anti-smoking counter-advertising.

- Studies have shown that fully-enforced sales restrictions have successfully led to reductions in youth smoking, particularly for younger teens.
 - A 1991 study in the *Journal of the American Medical Association* reported a 69 percent decline in daily use by seventh and eighth graders in Woodridge, Illinois following legislation and enforcement of restrictions on cigarette sales to minors.²

¹Chaloupka, F., and M. Grossman, "Price, Tobacco Control Policies, and Youth Smoking," NBER Working Paper #5740, 1996.

²Jason, L. A., P. Ji, M. Anes, S. Birkhead, "Active Enforcement of Cigarette Control Laws in the Prevention of Cigarette Sales to Minors," *Journal of the American Medical Association*, Vol. 266, no. 22, December 11, 1991, pp. 3159-3161.

- A 1992 study in *Tobacco Control* reported a 44 percent decline in junior high school students' smoking in Leominster, Massachusetts as a result of strictly enforced sales restrictions.³
- A recent working paper comparing the effectiveness of state and local access restrictions estimates that comprehensive access restrictions for youth can lower youth smoking by 18%.⁴
- A number of experts in this area suggest that a conservative assumption for the impact of comprehensive sales and marketing restrictions is a 10-20% reduction in youth smoking. Based on their opinion and the existing literature, we use this range for our estimates.

Hence, a coordinated effort of sizeable price increases and fully-enforced access and advertising restrictions would be more likely to produce a significant and sustained decline in youth smoking than either policy by itself.

- The Administration's Budget proposal calls for a significant increase in the real price of cigarettes over the next five years. Coupled with comprehensive sales and advertising restrictions, that price increase will lead to a 39 to 46 percent reduction in underage teen smoking in five years.
- In 2003 alone, the number of young people kept from smoking would be in the range of about 1.4 to 1.7 million teens.
- Over the next five years, the cumulative number of young people kept from smoking would be in the range of about 2.4 to 2.8 million teens.
- The direct result of these policies over the next five years is that almost 1 million of today's young people will be spared from premature deaths resulting from smoking-related diseases.

These estimates illustrate the powerful impact of a combination of price increases and access/marketing restrictions on youth smoking. But there remains some uncertainty in our estimates of the impact of these policies.

- That is why the President has also called for youth smoking surcharges on the tobacco industry if they do not meet targeted reductions in youth smoking. These surcharges will help to ensure that we meet our youth targets.

These estimates are based on daily smoking. Because underage teen smoking on less than a daily basis frequently leads to daily smoking and the subsequent risk of death and disease, the figures understate the total benefits of these policies.

³DiFranza, J.R., R.R. Carlson, R.E. Caisse, "Reducing Youth Access to Tobacco," *Tobacco Control*, 1992.

⁴Chalupka, F., and R.L. Pacula, "Limiting Youth Access to Tobacco: The Early Impact of the Synar Amendment on Youth Smoking," Working Paper, University of Illinois-Chicago, January, 1998.

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- Using this model, a \$1.10 increase in the real price of cigarettes is projected to reduce youth smoking by 32%. Since a \$1.10 increase in the real price in 2003 represents a 53% rise, the associated “average” elasticity is actually -0.6.⁵

Industry Views Validate Administration Analysis

- Recently released internal documents from Philip Morris demonstrate that the tobacco industry has known for years that youths are very responsive to price.
- A memo from 1981 documents that the tobacco industry understands the compelling evidence that youths are very price responsive. This document is a review of the 1981 working paper by Lewit, Coate, and Grossman, discussed below. This industry review is very favorable, and does not question this substantial estimate of youth price responsiveness. As the memo states, “The authors of this paper ... have constructed an elegant longitudinal and cross-sectional model of teenage smoking behavior... The most important finding, and the one of greatest significance to the company, is their calculation of the price elasticity of cigarettes among teenagers.”
- This memo goes on to state “... it is clear that price has a pronounced effect on the smoking prevalence of teenagers, and that the goals of reducing teenage smoking and balancing the budget would both be served by increasing the Federal excise tax on cigarettes.”

⁵The 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.

- Internal industry analyses also validate the relevance of the Canadian example discussed below. Another Philip Morris strategic planning document from the early 1990s states: “There is no question that increasing taxes will cause a decrease in smoking. This point is best illustrated by the present situation in Canada.”
- In another document dated September 3, 1987, a Philip Morris analysis of price increases concluded: “price increases . . . prevented 600,000 teenagers from starting to smoke . . . We don’t need to have that happen again.”

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 changes in youth smoking 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 shows — for each analysis of youth smoking — the projected reduction in teen smokers from a \$1.10 price increase (along with the Treasury estimates). This approach recognizes the fact that the Treasury model allows the elasticity to decline for larger price increases.

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%
Treasury	32%
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 what most of the recent work in this area would suggest.
- One study which estimates a very different response from the remainder of the literature (Wasserman et al.) focuses exclusively on the late 1970s. During this period some surveys indicate that youth smoking fell precipitously without a price increase. We believe a more appropriate interpretation of the data during the late 1970's is that youth smoking was driven down by the broader dissemination of facts about smoking's dangers. According to one major survey, only half of 12th graders saw a great risk in smoking a pack or more of cigarettes a day in 1975 — 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 stands behind 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 standard estimation techniques are used on their full sample of 8th-12th graders.⁶
- The study does find smaller effects when they choose the particular sample of 12th graders who weren't smoking in 8th grade, and try to 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 only 5% of their sample — the 5% of teens that are most addicted — reduces their estimate so dramatically.

⁶The estimate cited in our Table is an average of their elasticities for 8th, 10th, and 12th graders.

- The explanation for this anomalous finding is fundamental problems with their empirical methodology. A recent re-analysis of their data by Professors Thomas Dee of Georgia Tech and William Evans of Maryland has found these results to be very sensitive to the particular sample restrictions imposed by the Cornell authors. As these experts note, “The results appear to be purely an artifact of the way that the authors constructed the analysis sample.” When a broader sample of observations is used, there is a very significant effect of taxes on youth smoking in their onset model -- indeed, the results are quite comparable to the previous literature.
- This partly explains why the results of the Cornell study are so statistically imprecise. For example, in this particular model, they estimate that a \$1.10 price rise would reduce smoking onset by only 7%. However, given the level of statistical imprecision in their model, their findings would be equally consistent with a reduction in youth onset of 50% or more from this \$1.10 price increase — a range which encompasses the Treasury estimate, as well as their own estimates using a more straightforward methodology.
- One criticism levied by DeCicca et al. against the earlier literature is that it does not control for differences across states at a point in time 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 solve this problem; it still relies on point-in-time comparisons of smoking onset across states, making it difficult to separate out other differences across those states. Other studies address this problem much more directly. 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 to that used by Treasury 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 do not tell us much of anything about 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 is 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, controlled analysis of U.S. teen smoking 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 during the 1980s confirms the sensitivity of youth to price changes.
- In 1981, youth smoking was pervasive in Canada -- 43.5% of Canadian teen were current smokers (defined as having smoked in the last thirty days). The youth smoking rate during this period was about 50% higher than in the U.S.
- Over the next decade, Canada significantly increased the price of cigarettes. From 1981 to 1989, the price increased by about 90%. It is worth noting that these price increases occurred without significant smuggling; the widely cited smuggling episode from Canada did not occur until 1992-1993, when cigarette prices had risen by more than \$1.50 above their 1989 level.
- These price increases were associated with enormous declines in teen smoking. From 1981 to 1989, current Canadian teen smoking rates fell from 43.5% to 22.6%, a decline of almost fifty percent. During this period there were no substantial change in teen smoking rates in the U.S., so by 1991 Canada's teen smoking rate was lower than ours.
- The implied Canadian elasticity of -0.52 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 large a price rise, which is an elasticity of -0.51. The large declines in Canadian youth smoking rates represent largely the impacts of price increases, as opposed to other public policies designed to curb teen smoking. From 1981 to 1989, Canada did not impose any significant public health policy changes designed to reduce teen smoking.
- In the early 1990s, smuggling did become a problem in Canada, and the government lowered dramatically its federal excise taxes. As a result, between 1991 and 1994 teen smoking began to rise again in Canada. Of course, teen smoking was on the rise in the U.S. over this period as well, so it is not as easy to attribute all of the rise in Canada over this time period 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: Melissa N. Benton (CN=Melissa N. Benton/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME: 9-JUL-1998 14:43:55.00

SUBJECT: REVISED LABOR Draft Bill on Trade Adjustment Assistance Reform Act of 1998

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TEXT:

The document has been redlined to indicate changes made to the earlier version.

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Total Pages: _____

LRM ID: MNB199
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Wednesday, July 8, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

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

OMB CONTACT: Melissa N. Benton

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

SUBJECT: REVISED LABOR Draft Bill on Trade Adjustment Assistance Reform Act of 1998

DEADLINE: Noon Monday, July 13, 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: To follow is the Department of Labor's revised draft of the Trade Adjustment Assistance Reform Act of 1998.

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LRM ID: MNB199 SUBJECT: REVISED LABOR Draft Bill on Trade Adjustment Assistance Reform Act of 1998

RESPONSE TO
 LEGISLATIVE REFERRAL
 MEMORANDUM

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

You may also respond by:

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

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

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

FROM: _____ (Date)
 _____ (Name)

_____ (Agency)

_____ (Telephone)

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

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

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

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7ADCFE2D1C6EDCC64624FC2A9DBDBE43522646332846298816C612A68F68D55C05C19C9455F424

DRAFT
7/8/98

DRAFT TRANSMITTAL LETTER FROM SECRETARY
HERMAN TO THE CONGRESS

I enclose for the consideration of the Congress a draft bill entitled the "Trade Adjustment Assistance Reform Act of 1998." By combining the best features of the existing Trade Adjustment Assistance (TAA) and the NAFTA Transitional Adjustment Assistance (NAFTA-TAA) programs into a consolidated TAA program, this draft bill would provide effective, comprehensive assistance to workers adversely affected by international trade.

This legislation follows through and expands upon the commitment made by the President last fall to improve and expand Trade Adjustment Assistance to workers. The draft bill would authorize the consolidated TAA program for five years, through fiscal year 2003. The consolidated program would expand eligibility to workers who lose their jobs due to shifts in production by their firm to other countries. Currently, TAA eligibility is restricted to workers adversely affected by imports and NAFTA-TAA is limited to workers adversely affected by imports from or shifts in production to Mexico or Canada. This expanded eligibility will ensure comprehensive assistance is available to workers who lose their jobs due to imports from or shifts in production to any foreign country.

The bill also ensures that ~~requires the immediate provision of~~ rapid response and basic readjustment services will be made available to workers upon the filing of a petition for TAA eligibility. These services are critical to facilitating rapid reemployment of workers and provide important information to those workers relating to the resources available at the Federal, State and local level to assist them. In addition, the legislation requires a one-third reduction in the

time period for the Department of Labor to process petitions for certification of eligibility under TAA; increases the annual cap on training expenditures to \$150 million; and provides contingency funds should the program exhaust appropriated funds in any fiscal year.

The draft bill also harmonizes the differing rules of the programs relating to requiring enrollment in training as a condition for receiving income support. These rules would retain the program's emphasis on linking income support to training while allowing specified, limited exceptions where appropriate to assist certain workers. In addition, the bill would assist workers by expanding the period for scheduled breaks in a training program during which a worker may continue to receive income support.

The draft bill also contains provisions enhancing coordination between the consolidated TAA program and the dislocated worker program under the Job Training Partnership Act (JTPA). In particular, the bill would significantly enhance the accountability of the consolidated program by ensuring that TAA and the dislocated worker program have common performance outcome measures and information, which would include information on the placement in employment, earnings (including wage replacement) and retention in employment of participants.

The bill would also require coordination to ensure workers have access to employment-related services available in one-stop career centers and would authorize the use of funds to provide supportive services. Finally, the bill assures that information will ~~continue to be~~ collected and maintained identifying the countries to which production is shifted and ~~or~~ from which articles are imported that result in certifications and the number of certifications relating to each country. This will include information on the number of certifications relating to imports from or shifts in products to Mexico or Canada, which will assist in making eligibility determinations under

related NAFTA programs and in assessing the adequacy of the consolidated program. This consolidation of the existing programs would therefore result in a program that responds to the needs of workers adversely affected by trade in a more rapid, comprehensive, and accountable manner.

It should be noted that this legislation would build on administrative efforts already undertaken by the Department to improve the programs. In addition, the legislation would be supplemented by the Administration's commitment to make funds available under the National Reserve Account in the JTPA dislocated worker program to address the needs of workers in firms that are secondarily affected by international trade -- that is suppliers to directly affected firms and assemblers and final processors of articles produced by such firms. These workers would be eligible to receive the same assistance available to workers under the consolidated TAA program.

Together, these reforms would provide critical assistance to help workers who lose their jobs due to international trade to obtain reemployment and would help to ensure that all Americans can benefit from economic change.

In addition, at the request of the Department of Commerce, the draft bill includes a provision extending for the same five year period the trade adjustment assistance for firms program administered by that Department under chapter 3 of title II of the Trade Act of 1974.

I urge the Congress to give the draft bill prompt and favorable consideration.

[INSERT OMB PARAGRAPHS ON PAYGO]

The Office of Management and Budget advises that...

Sincerely,

Alexis M. Herman

Enclosures

A BILL

To consolidate and enhance the Trade Adjustment Assistance and NAFTA Transitional Adjustment Assistance programs, and for other purposes.

Be it enacted by the Senate and House of Representatives of America in Congress assembled,

SECTION 1. SHORT TITLE

This Act may be cited as the "Trade Adjustment Assistance Reform Act of 1998".

SEC.2. AUTHORIZATION OF CONSOLIDATED TRADE ADJUSTMENT ASSISTANCE.

(a) AUTHORIZATION OF APPROPRIATIONS.-Section 245 of the Trade Act of 1974 (19 U.S.C. 2317) is amended to read as follows:

"Sec. 245. AUTHORIZATION OF APPROPRIATIONS.- There are authorized to be appropriated to the Department of Labor for each of fiscal years 1999, 2000, 2001, 2002, 2003, such sums as may be needed to carry out the purposes of this chapter.

(b) TERMINATION.-Section 285(c) of such Act (19 U.S.C. 2271, preceding note) is amended to read as follows:

“(c) No assistance, vouchers, allowances or other payments may be provided under chapter 2, and no technical assistance may be provided under chapter 3, after September 30, 2003.”

(c) REPEAL OF SUBCHAPTER D.- Section 250 ~~of the Trade Act of 1974~~such Act (19 U.S.C. ~~2337~~ 2331) is repealed.

(d)CONFORMING AMENDMENT.- Section 249A of such Act (19 U.S.C. 2322) is repealed.

SEC.3. FILING OF PETITIONS AND PROVISION OF RAPID RESPONSE ASSISTANCE.

(a) FILING OF PETITIONS- Section 221 (a) of the Trade Act of 1974 (19U.S.C. 2271(a)) is amended to read as follows:

“(a) FILING OF PETITIONS AND RAPID RESPONSE ASSISTANCE.-

“(1) FILING OF PETITIONS.-A petition for certification of eligibility to apply for adjustment assistance under this chapter may be filed by a group of workers (including workers in an agricultural firm or subdivision of any agricultural firm) or by their certified or recognized union or other duly authorized representative _with the Governor of the State in which such workers’ firm or subdivision is located. For purposes of this paragraph, the duly authorize representative may include entities such as the workers’ firm, the State dislocated worker unit, other State agencies, and one-stop career centers.

“(2) STATE RESPONSIBILITIES AND RAPID RESPONSE.-Upon receipt of a petition filed under paragraph (1), the Governor shall-

“(A) immediately transmit the petition to the Secretary of Labor

(hereinafter in this chapter referred to as the “Secretary”);

“(B) ensure that rapid response assistance and basic readjustment services authorized under other Federal law are made available to the workers covered by the petition to the extent authorized under such law; and

“(C) assist the Secretary in the review of the petition by verifying such information and providing such other assistance as the Secretary may request.

“(3) PUBLICATION.- Upon receipt of the petition, the Secretary shall promptly publish notice in the Federal Register that the Secretary has received the petition and initiated an investigation.”.

(b) EXPEDITED REVIEW OF TAA PETITION BY THE SECRETARY.- Section 223(a) of such Act (19 U.S.C. 2273(a)) is amended by striking “60 days” and inserting “40 days”.

SEC.4. ADDITION OF SHIFT IN PRODUCTION AS BASIS FOR TAA ELIGIBILITY.

Section 222(a) of the Trade Act of 1974 (19 U.S.C. 2272(a)) is amended to read as follows:

“(a) IN GENERAL- A group of workers (including workers in any agricultural firm or subdivision of an agricultural firm) shall be certified by the Secretary as eligible to apply for adjustment assistance under this chapter pursuant to a petition filed under section 221 if the Secretary determines that a significant number or proportion of the workers in such workers’ firm or an appropriate subdivision of the firm have become totally or partially separated, or are threatened to become totally or partially separated, and either-

“(1) that-

“(A) the sales or production, or both, of such firm or subdivision have decreased absolutely,

“(B) imports of articles like or directly competitive with articles produced by such firm or subdivision have increased, and

“(C) the increase in imports under subparagraph (B) contributed importantly to such workers’ separation or threat of separation and to the decline in the sales or production of such firm or subdivision; or

“(2) that there has been a shift in production by such workers’ firm or subdivision to a foreign country of articles like or directly competitive with articles which are produced by the firm or subdivision.”.

SEC. 5. ENROLLMENT IN TRAINING REQUIREMENT.

Section 231(a)(5)(A) of the Trade Act of 1974 (19 U.S.C. 2291(a)(5)(A)) is amended to read as follows:

“(A)(i) is enrolled in a training program approved by the Secretary under section 236(a);
and

“(ii) the enrollment required under clause (i) occurs no later than the latest of--

“(I) the last day of the 16th week after the worker’s most recent total separation from adversely affected employment which meets the requirements of paragraphs (1) and (2) of section 231(a);

“(II) the last day of the 8th week after the week in which the Secretary issues a certification covering the worker; or

“(III) 45 days after the later of subclause (I) or (II), if the Secretary

determines there are extenuating circumstances that justify an extension in the enrollment period;”.

SEC.6. WAIVERS OF TRAINING REQUIREMENTS.

(a) IN GENERAL- Section 231(c) of the Trade Act of 1974 (19 U.S.C. ~~2241~~2291(c)) is amended to read as follows:

“(c)(1) The Secretary may issue a written statement to a worker waiving the enrollment in training requirement of subsection (a)(5)(A) if the Secretary determines that-

“(A) the worker has been notified that the worker will be recalled by the firm from which the qualifying separation occurred;

“(B) the worker has marketable skills as determined pursuant to an assessment of the worker, which may include an assessment under the profiling system under section 303(j) of the Social Security Act, carried out in accordance with guidelines issued by the Secretary;

“(C) the worker is within two years of qualifying for retirement benefits under the Social Security Act;

“(D) the worker is unable to participate in training due to health of the worker, except that a waiver under this subparagraph shall not be construed to exempt a worker from requirements relating to availability for work, active search for work, or refusal to accept work under State or Federal unemployment compensation laws;

“(E) the first available enrollment date for the approved training program of the worker is within 45 days of the determination made under this paragraph; or

“(F) there are insufficient funds available for training under this chapter,

taking into account the limitation under section 236(a)(2)(A).

~~“(2) If the Secretary determines the basis for issuing~~ The Secretary shall specify the duration for the waiver under paragraph (1) is no longer applicable to a worker, and shall periodically review the waiver to determine whether the basis for issuing the Secretary shall issue a written statement to the worker revoking the waiver remains applicable. If at any time the Secretary determines such basis is no longer applicable to the worker, the Secretary shall revoke the waiver.

“(3) Pursuant to the agreement under section 239, the Secretary may authorize the State or State agency to carry out activities described in paragraph (1) (except for the determination under paragraph (1)(F)) and paragraph (2). Such agreement shall include a requirement that the State or State agency submit to the Secretary the written statements provided pursuant to paragraph (1) and a statement of the reasons for the waiver.

“(4) The Secretary shall submit a annual report to the Finance Committee of the Senate and the Ways and Means Committee of the House of Representatives identifying the number of workers who received waivers ~~under paragraph (1) and the number and the average duration of waivers revoked under paragraph (2)~~ such waivers issued under this subsection during the preceding year.”.

(b) CONFORMING AMENDMENT.- Section 231(a)(5)(C) of such Act (19 U.S.C. 2291 (a)(5)(C)) is amended by striking “certified”.

SEC.7. PROVISION OF TRADE READJUSTMENT ALLOWANCES DURING BREAKS IN TRAINING.

Section 233(f) of the Trade Act of 1974 (19 U.S.C. 2293(f)) is amended by striking “14

days” and inserting “30 days”.

SEC.8. INCREASE IN TAA TRAINING CAP.

Section 236(a)(2)(A) of the Trade Act of 1974 (19 U.S.C.2296(a)(2)(A)) is amended by striking “\$80,000,000” and inserting “\$150,000,000”.

SEC 9. ELIMINATION OF QUARTERLY REPORT.

Section 236(d) of the Trade Act of 1974 (19 U.S.C. 2296(d)) is amended by striking the last sentence of such subsection.

SEC.10. COORDINATION WITH JTPA AND ONE-STOP CAREER CENTERS.

(a) COORDINATION WITH JTPA.- Section 239(e) of the Trade Act of 1974 (19 U.S.C. 2311(e)) is amended by inserting after the first sentence of such subsection the following sentence:

“Such coordination shall include common reporting systems and elements, including common elements relating to participant data and performance outcomes.”.

(b) COORDINATION WITH ONE-STOPS.- Section 235 of such Act (19 U.S.C. 2295) is amended by inserting “,including the services provided through one-stop career centers” before the period at the end of the first sentence.

SEC. 11.SUPPORTIVE SERVICES.

Section 235 of the Trade Act of 1974 (19 U.S.C. 2295) is further amended by adding at the end the following sentences:

"In addition, the Secretary may authorize the use of funds available under this chapter to provide supportive services to enable adversely affected workers to participate in or complete

training. For purposes of this section, the Secretary shall issue guidance on the provision of supportive services that is consistent with the provision of such services under the dislocated worker program under title III of the Job Training Partnership Act."

SEC. 12. PERFORMANCE INFORMATION.

Section 239 of the Trade Act of 1974 (19 U.S.C. 2311) is amended by adding the following new subsection:

"(g) PERFORMANCE INFORMATION.

Any agreement entered into under this section shall include a requirement that the State report such performance information as the Secretary may require. At a minimum, such information shall include the rates of entered employment, wage replacement, earnings 6 months after termination, and retention in employment 6 months after termination for participants in the program under this chapter."

SEC. 13. AVAILABILITY OF CONTINGENCY FUNDS.

Section 245 of the Trade Act of 1974 (19 U.S.C. ~~2314~~2317) is amended by adding at the end of the following subsection:

"(c) CONTINGENCY FUNDS.- Subject to the limitation contained in section 236(a)(2), if in any fiscal year the funds available to carry out the programs under this chapter are exhausted, there shall be made available —from funds in the Treasury not otherwise appropriated amounts sufficient to carry out such programs for the remainder of the fiscal year."

SEC. 14. INFORMATION ON ~~CERTAIN~~ CERTIFICATIONS.

Section 223 of the ~~trade~~Trade Act of 1974 (19 U.S.C. 2273) is amended by adding the

following subsection:

“(e) COLLECTION OF CERTAIN INFORMATION.- The Secretary shall collect and maintain information --relating to

(1) identifying the number of certifications under this chapter that are based on shifts of countries to which firms have shifted production to Mexico and Canada, and, to the extent resulting in certifications under section 222(a)(2), and the number of such certifications relating to each such country;

(2) to the extent feasible, the number of certifications based on imports of articles identifying the countries from Mexico and Canada.”which imports of articles have resulted in certifications under section 222(a)(11), and number of certifications relating to each such country.

SEC.15. AUTHORIZATION OF APPROPRIATIONS FOR TRADE ADJUSTMENT ASSISTANCE FOR FIRMS ADMINISTERED BY THE DEPARTMENT OF COMMERCE.

Section 256(b) of the Trade Act of 1974 (19 U.S.C. 2346(b)) is amended to read as follows:

“(b) AUTHORIZATION OF APPROPRIATIONS.- There are hereby authorized to be appropriated to the Secretary of Commerce for fiscal years 1999, 2000, 2001, 2002, and 2003 such sums as may be necessary to provide technical assistance under section 253.”

SEC.16. EFFECTIVE DATE AND TRANSITION.

(a) EFFECTIVE DATE.- The provisions of this Act shall take effect on October 1, 1998.

(b) TRANSITION.- The Secretary is authorized to establish such rules as may be appropriate to provide for an orderly transition from the provisions of law amended or repealed by this Act.

DRAFT

7/8/98

SECTION-BY-SECTION ANALYSIS OF THE TAA
AND NAFTA-TAA CONSOLIDATION ACT OF 1998

Section 1 provides that the short title of the Act is the "Trade Adjustment Assistance Reform Act of 1998".

Section 2 contains the authorization for the consolidated Trade Adjustment Assistance (TAA) program.

Section 2(a) authorizes such sums as may be necessary to be appropriated to the Department of Labor to carry out the program for each of the five succeeding fiscal years -- FY 1999 through FY 2003.

Section 2(b) provides a termination date for assistance under the consolidated program and for the trade adjustment assistance for firms administered by the Department of Commerce of September 30, 2003.

Section 2(c) repeals the NAFTA Transitional Adjustment Assistance (NAFTA-TAA) program.

Section 3 relates to the filing of petitions and the provision of rapid response assistance by the States.

Section 3(a) provides that a petition for certification of eligibility to apply for assistance is to be filed by a group of workers or by their union or other representative with the Governor of the State in which the workers' firm is located. The other representatives who may file the petition on behalf of the workers include entities such as the workers' firm, the State dislocated worker unit, other State agencies, and one-stop career centers. The Governor is to immediately transmit the petition to the Secretary of Labor; ensure that rapid response assistance and basic readjustment services authorized under other Federal law are made available to workers covered by the petition; and assist the Secretary in reviewing the petition by verifying information and providing such other assistance as the Secretary may request. The Secretary is to publish a notice in the Federal Register upon receipt of an petition that an investigation has been initiated. This provision is a hybrid of the current petition procedures under the two programs. Currently under TAA the petition is filed with the Secretary rather than the State and there is no requirement that the State provide appropriate rapid response services. Rapid response assistance and basic readjustment services provide critical information and services that can often facilitate coordinated planning and more rapid reemployment for affected workers. Therefore, it is essential that this assistance be included in the consolidated program. Currently, under NAFTA-TAA the petition is filed with the Governor, who has ten days to make a preliminary determination of eligibility, and then transmits the petition to the Secretary for a final determination. Rapid response assistance is required upon an affirmative finding. The consolidated provision relieves the burden on the States of making a preliminary determination and avoids unnecessary delay in the provision of rapid response assistance. Under the

consolidated provision, the State is also to provide such assistance in reviewing the petition as the Secretary may request, which should assist in expediting the review process.

Section 3(b) accelerates the time period in which the Secretary is to complete a review of the petitions from the current 60 days after a petition is filed under TAA to 40 days after a petition is filed under the consolidated program.

Section 4 adds as a basis for eligibility under the consolidated TAA program job loss due to the shift in production by the workers' firm to another country. Currently, TAA eligibility is limited to workers who are adversely affected by imports. NAFTA-TAA eligibility is based on workers already affected by imports from Mexico and Canada or a shift in production to either of those two countries. The consolidated TAA program will base eligibility on workers adversely affected by either imports from or shifts in production to any foreign country.

Specifically, the amended section 222(a) of the Trade Act of 1974 would provide that a group of workers filing a petition will be eligible for assistance if the Secretary determines that a significant number or proportion of the workers in the workers' firm or subdivision have become separated, or are threatened with separation, and either: (1) the sales or production of the firm have decreased absolutely, imports of articles like or directly competitive with the articles produced by the firm or subdivision have increased, and the increase in imports contributed importantly to the workers' separation and to the decline in sales or production by the workers' firm, or (2) there has been a shift in production by the workers' firm or subdivision to a foreign country of articles like or directly competitive with the articles produced by the firm or subdivision.

Section 5 would apply to the consolidated TAA program an enrollment in training

requirement for income support similar to the requirement that is currently included under NAFTA-TAA. Under this requirement, in order to be eligible to receive income support under the program while in training, a worker must be enrolled in training not later than either the last day of 16th week of a worker's most recent total qualifying separation or the 8th week after a certification of eligibility is issued. The Secretary may extend these periods by 45 days if there are extenuating circumstances, such as a course is cancelled or the first available enrollment date for a particular program is later. This requirement encourages workers to make training decisions early in their spell of unemployment which will accelerate reemployment and enhance the adjustment process.

Section 6 specifies the conditions under which a waiver may be issued from the general requirement that a worker be enrolled in training to receive income support. This provision is a hybrid between the TAA program, which provides general waiver authority where training is deemed to be not "feasible or appropriate" for a worker, and NAFTA-TAA which does not allow any waivers of the requirements.

Specifically, the new provision allows a waiver under the following six conditions: (1) the worker has been notified that the worker will be recalled to employment; (2) the worker has marketable skills as determined pursuant to an assessment; (3) the worker is within two years of qualifying for retirement benefits under the Social Security Act; (4) the worker is unable to participate in training due to health (except this does not exempt the worker from available for work requirements otherwise applicable to the receipt of income support); (5) the first available enrollment date is within 45 days; or (6) there are insufficient funds for training under the chapter. The Secretary is to specify the duration of each waiver and periodically review the

waiver to ensure the basis for granting it remains applicable to the worker.

These requirements are intended to ensure that the primary purpose of income support under the Act -- to assist workers while they are participating in training -- is maintained while allowing for reasonable exceptions under certain circumstances.

Section 7 would expand the period for which a worker may continue to receive income support during breaks in training. Currently, a worker may not receive income support during a break in training if the break exceeds 14 days. This imposes hardships on certain workers, particularly over the winter holidays. In addition, since training is increasingly being provided through community colleges and other institutions with breaks scheduled longer than 14 days, this limitation will be increasingly problematic. The amendment would extend the break-in-training period to 30 days, which would generally accommodate training institution schedules while preserving the linkage of income support under the program to participation in training.

Section 8 would provide a training cap for the consolidated program of \$150 million. Currently, the cap for the TAA program is \$80 million and the NAFTA-TAA is \$30 million. The increase is intended to address the expansion of eligibility due to shifts in production, an expected increase in the programs take-up rate due to the Department's administrative efforts to expand outreach, and to account for the reduction in the number of training waivers expected under the revised rules.

Section 9 would eliminate a quarterly report to the Congress on training expenditures. The report appears to be of limited utility. The Department has been and will remain committed to ensuring that Congress is fully informed regarding expenditures under the program, especially

where it is anticipated that the expenditures will reach the cap.

Section 10 provides for expanded coordination between the consolidated TAA program and the dislocated worker program administered under the Job Training Partnership Act. Specifically, section 10(a) provides that the coordination is to include common reporting systems and elements, including elements relating to participant data and performance outcomes. This ~~information~~ will ~~significantly enhance the accountability of the consolidated program and~~ facilitate enhanced cooperation between and assessments of the two programs.

In addition, section 10(b) provides that in ensuring workers are provided employment-related services, the Secretary is to ensure such services include services at one-stop career centers. These centers are being established throughout the country pursuant to Department of Labor grants and will be an invaluable resource in providing information, services, and referrals to TAA participants.

Section 11 provides that the Secretary may authorize funds under this chapter to be used to provide supportive services to enable eligible workers to participate in or complete training. These services, such as transportation and child care, may be critical to facilitating a worker's participation in training and are authorized under JTPA training programs. While as under current law this provision retains a requirement that the Secretary attempt to arrange for the provision of these services by other programs, it allows the Secretary to authorize the use of funds under this chapter to provide these services where such attempts are unsuccessful.

Section 12 provides that the agreement for administration of the program between the State and the Secretary is to include a requirement that the State reports performance information that the Secretary requests. At a minimum, this performance information is to include rates of

entered employment, wage replacement, and earnings and retention in employment six months after termination from the program. These performance measures are consistent with JTPA and will significantly enhance the accountability under the consolidated TAA program.

Section 13 provides that contingency funds are to be made available to the consolidated TAA program if appropriated funds are exhausted in any fiscal year. This provision does not supersede and is subject to the \$150 million cap on training expenditures. These funds are to be made available from funds in the Treasury that are not otherwise appropriated and will ensure that the commitment to provide assistance to adversely affected workers is not breached.

Section 14 provides that the Secretary is to collect and maintain information identifying the countries to which production is shifted and, to the extent feasible, from which articles are imported that result in certifications under this chapter and in the number of certifications relating to each such country. The provision qualifies the collection of information on imports "to the extent feasible" because it is sometimes difficult to identify the primary source of imported articles since such articles may have components produced in several different countries or may be transshipped among countries. These information collection requirements will result in the availability of information relating to certifications based on shifts in production to and imports from Mexico and Canada, which ~~relating to the number of certifications issued under da the consolidated TAA program that are based on the shift in production to Mexico and Canada and, to the extent feasible, on imports from those two countries.~~ Such information would be useful to the Congress and other policy makers in assessing the adequacy of the consolidated program. It would also maintain a commitment to account for program activity relating to trade with Mexico or Canada and would facilitate eligibility determinations for related

programs, such as the North American Development Bank and Community Adjustment and Investment Program.

Section 15 would authorize appropriations of such sums as may be necessary for fiscal years 1999-2003 for trade adjustment assistance for firms under chapter 3 of title II of the Trade Act of 1974, which is administered by the Department of Commerce. This authorization period is consistent with the authorization period for trade adjustment assistance for workers under chapter II that is provided in section 2 of this bill.

Section 16 provides the effective date and transition provisions. Section 16(a) provides that the provisions of the Act are to take effect on October 1, 1998. Section 16(b) authorizes the Secretary to establish appropriate rules to facilitate or orderly transition from the separate TAA and NAFTA-TAA programs to the consolidated program.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 9-JUL-1998 16:58:45.00

SUBJECT: Education Update

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

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

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

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

TEXT:

As we discussed, attached is a Shireman/Cohen memo to you and Gene, providing you an update on where we stand on our education initiatives, and steps we can take to promote our class size and school construction agenda over the next few months.===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D22]MAIL49357698H.126 to ASCII,
The following is a HEX DUMP:

FF57504300060000010A020100000002050000000433000000020000F11A8D6E25DBAF657E4538

July 9, 1998

MEMORANDUM FOR GENE SPERLING AND BRUCE REED

FROM: Bob Shireman and Mike Cohen

SUBJECT: Outlook for Education Priorities

As we recently reviewed education legislation in Congress, it became clear that we *may* see several pieces of education legislation come to the President's desk this year, even while Congress blocks action on our major proposals for Class Size Reduction and School Construction, and our investments in current programs. We wanted to provide you with our overview so that we can discuss strategy for the few weeks that remain in this legislative session.

The key question that we need to consider is: Given the outlook for the rest of the year, *how do we get traction to force Congress to act on class size, school modernization, and education appropriations?*

I. Certainties

There are only two education items that Congress is virtually certain to address in its final month:

1. Veto override on Education Savings Accounts (Coverdell), with its riders (such as reading). While the vote is sure to fail, it is the *message* that the Republicans want: they are for something popular for education, we are against it.

2. Funding (appropriations or continuing resolution). In addition to the fight over funding levels, this may include riders on national tests, block grants and other issues. We are struggling with how to gain the upper hand on appropriations, given the media's insistence that our budget request is not realistic due to the demise of tobacco legislation. This is the crucial bill for the education groups; it will occupy the vast majority of their time, and they will support our efforts outside the appropriations bill to the extent that they see us supporting increased education investments in the appropriations bill.

II. Possibilities

There are several bills with bipartisan support that *could* reach the President's desk before Congress adjourns:

1. Higher Education Act reauthorization. Assuming certain details are worked out, we would want to take credit for lower student loan interest rates, the government's first "performance-based organization," High Hopes, distance learning, and teacher training. The House has acted, and Senate action is expected soon.

2. G.I. Bill for America's Workers. This would include the President's proposal for a "Skill Grant," consolidation of programs, and other program improvements. The bill is in conference.

3. America Reads. The House passed a bill last year, and the Senate Committee has reported out its own version. One version or the other could be considered soon on the Senate floor, and either would be acceptable to us. The House version is better positioned to pass the Senate, though the education community is strongly opposed to it because of what they see as a "voucher-like" provision and a governance mechanism and funding stream that bypassed the state education agency.

4. Charter Schools. The House passed a bill last year, and the Senate Committee will mark up its version within the next several weeks, most likely on July 22. Both versions provide incentives for states to expand charter schools programs, and to provide stronger accountability for results. The President supported the House version before it passed, and we should do the same for the Senate at the appropriate time. If this is enacted, we can highlight it as another step to help reach the President's goal of 3,000 charter schools.

5. Ed-Flex. Sens. Frist and Wyden have introduced a bill to expand Ed-Flex to all 50 states. The bill is likely to be marked up next week along with the Charter Schools bill. We are working with them to ensure that it incorporates both greater flexibility as well as accountability for results. At present, there is little enthusiasm for expanding Ed-Flex among Democrats or the education groups, and conservative Republicans (e.g., Coats) who favor block grants may oppose this on the grounds that it will weaken the case for block grants. Nonetheless, if added to the charter schools bill and if there is sufficient time to take this up, it is likely to pass the Senate and be accepted by the House in conference.

6. Head Start Reauthorization. The Senate has marked up a bipartisan Head Start bill, and Riggs will take it up shortly in the House. There may be some controversial elements in the House (e.g., vouchers, English-only), though Riggs is eager to get a bill passed this year and presumably will not let it get hung up over those issues.

7. Vocational Education Reauthorization. Bipartisan approaches have passed the House and Senate and are headed for conference. Work has already begun at the staff level, but the House has not yet named conferees and may want to kill the bill because of right-wing worries that the bill will promote school-to-work.

III. Defensive Battles

In addition to the battles that we face on the appropriations bill, Congress is moving legislation on:

1. Block Grants. The House committee has reported a block grant that combines 29 programs, including Goals 2000, School-to-Work, the Technology Literacy Challenge
Automated Records Management System
Hex-Dump Conversion

Program, the Eisenhower Professional Development Program. The bill *may* go to the floor within the next few weeks. There is a chance that Roemer may strike a deal with Republicans to add an accountability provision, which could add Democratic support to the bill and which would be quite problematic for us. There is no companion bill in the Senate at present, and we suspect it will be difficult to find floor time to take it up.

2. Bilingual Education. The Riggs bilingual education bill has been reported out of committee and has also been attached to the appropriations bill. The prospects for floor action are uncertain, and there is little chance this will be taken up in the Senate. Nonetheless, this issue will continue to occupy a good deal of our time and could potentially be quite divisive for House Democrats.

IV. Getting Traction on Our Agenda

While Congress may move forward on some of the items described above, Congress has not held *any* hearings on legislation that the President has proposed for Reducing Class Size, School Modernization, and Education Opportunity Zones.

In addition, the House Appropriations subcommittee has rejected \$2 billion in increases proposed in our FY 99 Budget (while providing increases for some programs we proposed to freeze, such as special education). Further, we will again face a major battle over national testing on the appropriations bill.

Just as the President did on Monday, we should take every opportunity to run down the list of items on which Congress has failed to act, including:

- On July 15, when the House Appropriations Committee marks-up the Labor-HHS-Education bill.
- When the Coverdell bill is vetoed.
- In the July 18 radio address on Charter Schools.
- At the AFT speech on July 20 and the International Teachers' Organization speech on July 29.
- In the August 29 education radio address.
- In the August 31 interview.
- As opportunities arise.

In addition, we recommend working with the Democratic leaders in Congress on a Class Size-School Modernization strategy that would include:

July: Discharge Petition in the House of Representatives. Democrats, and perhaps the education groups, would announce an effort to bring the School Modernization bill and the Class Size Reduction bill to the floor in September by gathering signatures on a discharge petition. Progress could be noted periodically, so that supporters can use the information and apply pressure locally. (While the Senate does not have discharge

petitions, perhaps signatures could be gathered on a letter.)

August: School Visits and Surveys. For the August recess, we would provide Members of Congress with “kits” for holding media events on school modernization and class size reduction. The approaches would include local surveys of needs, town meetings, and forums. Cabinet members would be available to participate in some of the activities..

September 8: POTUS School Visit. POTUS would visit a school in Maryland or Virginia, and FLOTUS and VPOTUS would visit schools elsewhere in the country. Ideally, there would be examples of a school in need of repairs, a school experiencing burgeoning enrollment, a school with class sizes that are too large (or perhaps just right), and a modernized school. The visit(s) could be beamed by satellite for local events across the country, featuring local Members of Congress and/or supportive organizations.

Press hook: We would release the Education Department’s “Baby Boom Echo” report -- new data, state-by-state, on the record number of children in school. In the past two years, this report has gotten extensive tv and print coverage.

September-October: To be determined.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Janelle E. Erickson (CN=Janelle E. Erickson/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 9-JUL-1998 17:09:17.00

SUBJECT: RU 486 Conference Call, Tomorrow 7-10, 1:15 PM

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Linda Ricci (CN=Linda Ricci/OU=OMB/O=EOP @ EOP [OMB])

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

TEXT:

Tel # 66777 / 66799 code 3333

We will be discussing possible language for a SAP

please let me know if you can not phone in

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 9-JUL-1998 17:35:39.00

SUBJECT: FYI Patients Bill of Rights

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

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

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

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

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

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

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

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

TEXT:

You may all know this, but I just got off our weekly call with the committees and the Hill -- and the Hill folks said they are doing 3 events that I thought you should know about as we plan for next week:

Tuesday - (T)they want to do something on Managed Care, possibly something with the American Small Business Alliance with the House and Senate.

Wednesday - (T)Mock Hill hearing with a couple of stories of witnesses they have who are doctors with stories of how HMO's would not let them treat their patients the way they recommended and the patient suffered serious health setbacks, and they have a former benefits consultant from a managed care company who got sick and then realized how health decisions were getting made.

Thursday - Releasing Families USA studies report re: ERISA study about who's not covered. Hill wants them to think further about bringing in a Governor from one of these states.

Tuesday - (the 21st) AMA is doing their yearly "fly

in" to have their association
people on the Hill to lobby, they believe this year
the topic will be Patients B of R.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 9-JUL-1998 19:01:26.00

SUBJECT: Wellstone Amendment passed

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

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

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

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

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

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

TEXT:

FYI -- OMB has just notified us that the Wellstone amendment passed the Senate 55-43:

Adding to the welfare work options postsecondary education or vocational education not to exceed 24 months (previously only 12 months of voc ed counted)

Expanding the educational cap by removing teen parents in high school from the no more than 30 percent of all work participants that can be in education (previously, both teen parents in high school and those in voc ed counted toward the 30 percent cap).

----- Forwarded by Cynthia A. Rice/OPD/EOP on 07/09/98
06:08 PM -----

Anil Kakani
07/09/98 05:53:40 PM

Record Type: Record

To: Barry White/OMB/EOP
cc: See the distribution list at the bottom of this message
Subject: Re: Wellstone

In case you didn't hear, the Wellstone amendment just passed in the Senate (55-43).

Message Copied

To:

-
- diana fortuna/opd/eop
 - constance j. bowers/omb/eop
 - cynthia a. rice/opd/eop
 - andrea kane/opd/eop

anil kakani/omb/eop
wayne upshaw/omb/eop
mary i. cassell/omb/eop
jack a. smalligan/omb/eop

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 9-JUL-1998 19:04:21.00

SUBJECT: H-1B and Washington Post

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

TEXT:

FYI.

----- Forwarded by Julie A. Fernandes/OPD/EOP on 07/09/98
07:20 PM -----

Cecilia E. Rouse
07/09/98 06:58:42 PM
Record Type: Record

To: Sally Katzen/OPD/EOP, Jake Siewert/OPD/EOP, Julie A.
Fernandes/OPD/EOP, Gene B. Sperling/OPD/EOP
cc: Melissa G. Green/OPD/EOP, Shannon Mason/OPD/EOP
Subject: H-1B and Washington Post

We may have a press opportunity for Gene. Bill Branigan of the Washington Post is writing a story on H-1B from the worker's perspective. He talked to John Frasier at DOL (who administers the program) largely to get some factual information on what's legal. (The workers complain about being "put on the bench" (that is hired and then they sit around because there is no work and they only get paid a minimal amount of money during that time), about hefty breach of contract fees (upwards of \$10,000), and having to work 60-80 hours/week without receiving overtime.

Most importantly, in the course of the conversation Branigan said, "I've heard that the Administration is softening its position on the reforms. Is this true?" Frasier gave the party line but this may be an opportunity for Gene to reinforce that the Administration has NOT changed its position.

(In addition, Branigan asked, "Is it true that employers don't have to advertise for the jobs into which they hire the H-1B workers?" Frasier responded, "Yes, that's why we're seeking the "recruitment" attestation.)

DOL believes that Branigan is writing today and tomorrow, but is not sure when exactly the story would run. They are looking into it.

-- Ceci

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Kate P. Donovan (CN=Kate P. Donovan/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME: 9-JUL-1998 19:16:29.00

SUBJECT: Need clearance: S. 2271 - Property Rights Implementation Act of 1998

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Judy Jablow (CN=Judy Jablow/OU=CEQ/O=EOP@EOP [CEQ])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Roger S. Ballentine (CN=Roger S. Ballentine/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: Michelle Crisci (CN=Michelle Crisci/OU=WHO/O=EOP@EOP [WHO])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

POSITION:

POTUS WILL VETO

BACKGROUND:

VP statement of 3/9/98 reiterating POTUS veto of the

bill[s

House-passed version, H.R. 1534

(call if you need a copy).

House SAP sent 10/21/97: AG, Secretary of
Interior, EPA Administrator, CEQ
Chair would recommend veto (call if you need a
copy).

TIMING: Senate may bring up on the Floor tomorrow, Friday,
7/10. Please call w/ comments/clearance
by 10am tomorrow.

S. 2271 - Property Rights Implementation Act of 1998
(Sen. Hatch (R) UT)

The Administration strongly opposes S. 2271 because it would shift authority over local land use issues away from local communities and State courts to Federal courts. The bill would subject local communities to the threat of premature, expensive Federal court litigation that would favor wealthy developers over neighboring property owners and the community at large. The President will veto S. 2271 or any similar legislation.

S. 2271 would harm neighboring property owners, weaken local public health and environmental protections, and diminish the quality of life by undermining local land use planning. Through radical changes to the existing legal doctrine of ripeness, the bill would give developers inappropriate leverage in their dealings with local officials by making it easier to sue local communities far earlier in the land use planning process. S. 2271 also purports to allow takings claimants to circumvent State courts altogether.

The bill would violate constitutional limits on congressional power if read, as its supporters intend, to allow for a ruling that an uncompensated taking has occurred even where the claimant fails to pursue available State compensation remedies. The bill also would prohibit Federal courts from "abstaining" or deferring to State courts on certain delicate issues of State law. It would lead to poorly informed decisions by allowing claimants to bring claims in Federal courts without an adequate factual record, the very claims that the courts themselves have said are unripe for resolution.

S. 2271 would empower the U.S. Court of Federal Claims to invalidate Federal statutes and rules and grant other injunctive relief in a broad category of cases. This unprecedented grant of authority to a non-Article III court raises a host of serious constitutional and policy concerns.

The bill provides that, by including a property rights claim, any litigant against the United States could ensure that the entire case would be reviewed on appeal by the U.S. Court of Appeals for the Federal Circuit, an approach that would promote inappropriate forum-shopping. This would dramatically increase the legal influence of the Federal Circuit at the expense of other circuits, thereby disrupting settled interpretations of important areas of the law.

S. 2271 also could override the "preclusive review" provisions found in many Federal statutes, including major environmental laws. These provisions allow for the swift and orderly resolution of challenges to Federal actions. S. 2271 would deprive affected businesses and the public of the regulatory stability needed to plan their actions.

* * * * *

(Do Not Distribute Outside the Executive Office of the President)

This Statement of Administration Policy (SAP) was developed by the Legislative Reference Division (Briatico), in consultation with NRD (Fairweather/Dennis), BASD (Orlando), OIRA (Rostker), the Departments of Justice (Taylor/Dowling), Transportation (Holstrup) and the Interior (Lyder), Environmental Protection Agency (Reeder), and the Council on Environmental Quality (Campbell).

S. 2271, was introduced by Senator Hatch on July 7, 1998. The bill is the Manager's amendment to H.R. 1534, a bill that the Vice President has stated that the President will veto. S. 2271 does not make any substantial changes to H.R. 1534 or address any of the Administration's major concerns.

H.R. 1534, with an amendment, passed the House on October 22, 1997, by a vote of 248-178.

H.R. 1534 was ordered reported by the Senate Judiciary Committee with an amendment in the nature of a substitute on February 26, 1998. As ordered reported, H.R. 1534 has been amended to include provisions of H.R. 992, the Tucker Act Shuffle Relief Act of 1997, which was the subject of a multi-agency veto recommendation. H.R. 992 passed the House on March 12, 1998, by a vote of 230-180.

Administration Position To Date

On August 15, 1997, the Department of Justice sent a report on H.R. 1534 to Senator Leahy strongly opposing the bill.

On September 25, 1997, the Department's Acting Attorney General testified before the House Subcommittee on Courts and Intellectual Property. The testimony indicated that the Attorney General would recommend that the President veto H.R. 1534 if it passed in its current form. On October 7, 1997, the Department sent a letter to the Chairman of the House Judiciary Committee reiterating that Justice would recommend a veto of the bill.

On October 21, 1997, the Statement of Administration Policy sent to the House Rules Committee indicated that the Attorney General, the Secretary of the Interior, the Administrator of the Environmental Protection Agency, and the Chair of the Council on Environmental Quality would recommend that the President veto H.R.1534, as reported by the House Judiciary Committee.

On March 9, 1998, in remarks before the State Municipal Leagues, the Vice President stated that the President "will veto ... H.R. 1534 -- or any similar measures that would undermine local control or waste taxpayer money".

Background

Traditionally, the resolution of local land uses has been left to the neighborhoods and communities that would be most directly affected. Potential takings claims that result from local zoning laws are frequently the result of discussion and negotiations to balance competing values. This process by its very nature may be time consuming. If no agreement can be reached, the claimant then proceeds to State courts because real property issues are within the province of State law.

Federal courts show deference to local decision-making in two important ways. First, where appropriate, they abstain from deciding delicate or

complex issues of State law so State courts can decide those issues. Second, Federal courts require developers and other property owners to make every effort to resolve land use disputes with local officials before proceeding to a Federal court. Thus, claimants must pursue all available avenues of local decision making and the local government's decision must be final before a claim is "ripe" for Federal court review.

Under current law, takings claimants may have to file in two different courts, depending on the relief they are seeking. In general, the U.S. District Court has jurisdiction over cases where litigants are seeking injunctive relief or monetary relief for less than \$10,000 while the Court of Claims has jurisdiction over cases where litigants are seeking only monetary relief.

Confusion over which court to file in can lead plaintiffs to file in the wrong court and have to refile in the appropriate court. This "switching" is referred to as the "Tucker Act shuffle".

Provisions of S. 2271

S. 2271 would:

-- Relax the "ripeness" standard for adjudication by the Federal courts to include any claim or action upon which a final decision, as redefined for the purposes of the Act, has been rendered.

-- For the purposes of this Act, redefine "final decision" to: (1) ignore State exhaustion of remedy provisions; and (2) use any definitive decision made by any party under any statute, ordinance, regulation, custom, or usage regarding the extent of permissible uses of certain property.

-- Encourage premature lawsuits against local officials by allowing claimants to: (1) sue in a Federal court upon the single rejection of a land use proposal; and (2) bypass local procedures for variance and waiver applications by only having to submit an application.

-- Prohibit Federal courts from abstaining from exercising Federal jurisdiction even in cases where the claimant asserts a violation of a State law, right, or privilege or a case is pending in State court.

-- Authorize the District Court, in such cases that cannot be decided without resolution of significant but unsettled question of State law, to certify such question to the highest appellate court of that State.

-- Provide property owners the option of filing a civil action to challenge the validity of any Federal action that adversely affects the owner's interest in private property in either the District Court or Claims Court.

-- Grant both U.S. District Courts and the Court of Federal Claims the power to determine all claims -- whether for monetary or injunctive relief -- including related tort claims, arising out of Federal actions alleged to constitute Fifth Amendment takings.

-- Require the U.S. Court of Appeals for the Federal circuit to hear all appeals commenced by authority of this Act.

-- Repeal section 1500 of section 28 of the U.S. Code which states that the Court of Federal Claims does not have jurisdiction of any related claim to which the plaintiff has pending in another court against

the United States.

- Waive the sovereign immunity of the United States.
- Provide for attorneys fees to prevailing plaintiffs.
- Create a six year statute of limitations.
- Require a 60 day notice of intent to sue.
- Require notice to the property owner by the Federal government of any agency action that limits the use of private property, including personal and real property.

Pay-As-You-Go Scoring

According to NRD (Dennis) and BASD (Orlando), S. 2271 would not affect direct spending or receipts, therefore, it is not subject to the pay-as-you go (PAYGO) requirements of the Omnibus Budget Reconciliation Act of 1990.

LEGISLATIVE REFERENCE DIVISION
July 9, 1998 -- 11:25 a.m.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-JUL-1998 13:50:52.00

SUBJECT: Unz Implementation--SF Chronicle story

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

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

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

TEXT:

Thought you'd find this interesting--it appears that the Cal. State Board of Education is looking to give districts considerable flexibility in implementing Unz, making it as easy as possible under the law to allow parents to put their kids in bilingual programs, and requiring districts to figure out some way to provide kids additional services if they haven't learned English after a year.

25. Sacramento Bee
July 10, 1998 Category: Local

State starts putting Proposition 227 in place
Flexibility built into rules for school districts

By Janine DeFao Bee Staff Writer

The California State Board of Education unanimously adopted emergency regulations Thursday intended to give local schools and parents as much flexibility as possible in carrying out Proposition 227, the voter-approved initiative that sought to end bilingual education.

"I think we're trying to be flexible for programs that are successful and that have parent buy-in," said board president Yvonne Larsen.

"This should be considered a parent- and local school board-driven system," added the board's executive director, Bill Lucia.

The emergency regulations, which first need to be approved by the Office of Administrative Law before taking effect, say that schools must have "structured English immersion" programs □* the content of which remains undefined □* for any semester or equivalent term that begins after Aug. 2. But advocates of bilingual education, which uses a child's native language in teaching English and other academic subjects, are hoping that a federal judge will block the initiative's enactment after a court hearing next week.

A coalition of civil rights group is seeking a preliminary injunction on the grounds that the initiative is discriminatory and violates federal law.

Nearly 1.4 million students, a quarter of the state's public school enrollment, are not fluent in English. About a third have been taught in bilingual programs.

While the state board already had decided it does not have the authority to grant waivers to school districts that want to maintain bilingual programs, its action Thursday stressed that parents themselves can request waivers to place their children in programs other than English immersion. The regulations say such parent waivers "shall be granted unless the school principal and education staff have substantial evidence that the alternative program requested by parents would not be better suited for the pupil."

"Our target is to be protective of parents," said board vice president Robert Trigg.

But Ron Unz, author of Proposition 227, said Thursday that the initiative is clear "that parents who want their children in a bilingual program must provide evidence of the effectiveness of that bilingual program."

"So long as the initiative is interpreted in any reasonable manner, it would certainly end the overwhelming majority of bilingual programs in the state. Those programs have no evidence of children succeeding in them," Unz said.

The initiative states that limited-English students must be placed in an English immersion program and taught "overwhelmingly" in English for a period not normally to exceed one year. But a school must provide an alternative program if parents of more than 20 students in one grade receive waivers.

The head of one of the groups seeking to block the initiative said the parent waiver provision "is not a savior by a long shot."

"There is a very serious question about the ability of non-English-speaking parents to leverage a school system in this way," said Peter Roos, co-director of Multicultural Education, Training and Advocacy.

Also problematic to Roos and to several speakers at Thursday's board hearing is the requirement that all children be placed in an English language classroom for 20 instructional days before a waiver can be granted.

The regulations also state that school districts have to provide services to English learners, beyond one year of English immersion, until students are proficient in English and have erased any academic deficits.

But the regulations do not specify what will be taught in those English immersion programs and whether, or how much, of a child's native language can be used.

"We will have multiple ways of what (districts) think structured English immersion looks like," Lucia said.

State schools chief Delaine Eastin, who was not at Thursday's meeting, said in a statement that the regulations give schools "the flexibility ... to create programs suitable to meet the needs of their students."

But Eastin added, "This is by no means the final act in this drama.

Implementing this initiative will be a challenging task."□%

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-JUL-1998 16:05:00.00

SUBJECT: Full-page anti-gay ad in NY Times and USA Today

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

CC: Stephen K. Horn (CN=Stephen K. Horn/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

CC: Daniel W. Burkhardt (CN=Daniel W. Burkhardt/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

CC: C. Wayne Skinner (CN=C. Wayne Skinner/OU=WHO/O=EOP [WHO])

READ:UNKNOWN

CC: Moe Vela (CN=Moe Vela/O=OVP @ OVP [UNKNOWN])

READ:UNKNOWN

CC: Jonathan E. Smith (CN=Jonathan E. Smith/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

CC: Daniel C. Montoya (CN=Daniel C. Montoya/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

CC: Philip G Dufour (CN=Philip G Dufour/O=OVP @ OVP [UNKNOWN])

READ:UNKNOWN

CC: John Dankowski (CN=John Dankowski/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

CC: Paul_Yandura (Paul_Yandura @ hud.gov @ inet [UNKNOWN])

READ:UNKNOWN

CC: Jacquelyn J. Bennett (CN=Jacquelyn J. Bennett/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

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

READ:UNKNOWN

CC: Clark E. Ray (CN=Clark E. Ray/O=OVP @ OVP [UNKNOWN])

READ:UNKNOWN

CC: Miguel M. Bustos (CN=Miguel M. Bustos/O=OVP @ OVP [UNKNOWN])

READ:UNKNOWN

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

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

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

TEXT:

We've heard that a group called Coral Ridge Ministries, a fundamentalist group based in Florida, is running full-page ads in the NY Times and USA Today articulating a number of diseases for which "homosexuals" are responsible. The Washington Post has been asked to run it, but has not yet agreed. They are also apparently citing a CDC person in their claim that 50% of gay men are HIV positive (HHS is trying to find out who this person is).

Thought you might want to know.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-JUL-1998 16:14:09.00

SUBJECT: The ads are scheduled for Monday

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

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

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

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

TO: C. Wayne Skinner (CN=C. Wayne Skinner/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO: Moe Vela (CN=Moe Vela/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

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

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

TO: Philip G Dufour (CN=Philip G Dufour/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

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

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

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

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

TO: Clark E. Ray (CN=Clark E. Ray/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

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

TO: Elizabeth J. Potter (CN=Elizabeth J. Potter/O=OVP @ OVP [UNKNOWN])

READ:UNKNOWN

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

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

TEXT:

Sorry, I forgot to ad that the anti-gay ads are scheduled to run this coming Monday.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-JUL-1998 18:15:24.00

SUBJECT: upcoming reproductive choice activity

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

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

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

TEXT:

The schedule below is from Planned Parenthood. I hear that Ag approps and possible RU-486 amendment in the Senate may occur Tuesday.

----- Forwarded by Cynthia Dailard/OPD/EOP on 07/10/98
06:13 PM -----

clare_coleman @ ppfa.org
07/10/98 07:11:04 PM

Record Type: Record

To: Cynthia Dailard/OPD/EOP
cc:
Subject: this week and next week

Here's the update:

Labor-HHS Appropriations -- HOUSE: Full Appropriations Committee mark-up is Tuesday, July 14. We expect Rep. Istook (R-OK) to offer an amendment on parental consent for Title X that is identical to the one Istook offered in 1997. We also may see amendments related to abortion provision in the Medicare+Choice program, as well as a broadly-drafted "anti-discrimination" amendment related to abortion provision.

CCPA/Teen Endangerment Act -- HOUSE: CCPA is listed on the House floor schedule for Wednesday, July 15. The Democratic motion to recommit is expected to deal with prohibiting coercion of a minor's abortion decision. SENATE: The Senate Judiciary Committee mark-up is expected to resume Thursday, July 16, at which time pro-choice members will attempt to amend the bill.

Treasury/Postal Appropriations -- SENATE: Full Appropriations Committee mark-up is Tuesday, July 14. We expect that Senator Reid (D-NV) will attempt to attach contraceptive coverage to the Federal Employees Health Benefits (FEHB) program. HOUSE: The bill may be on the floor on Thursday, July 16 or Friday, July 17. It is unclear

whether an attempt to strike the Lowey provision adding contraceptive coverage to FEHB will be made or if Rep. Coburn (R-OK) will try to weaken the Lowey provision. Rep. DeLauro (D-CT) will attempt to strike the abortion restriction in FEHB.

OTHER IMPORTANT ACTION

Foreign Operations Appropriations -- HOUSE: Subcommittee mark-up of the FY 99 bill is Wednesday, July 15. It is unclear how population programs will be funded.

Civil advocacy and the RICO statute -- HOUSE Crime Subcommittee hearing on the use of RICO in the court case NOW v. Scheidler on Friday, July 17.

Ag Appropriations - SENATE: Floor consideration of this bill may be scheduled this week. It is unclear if a restriction on the FDA's ability to approve mifepristone, similar to the provision in the House bill, will be offered.

EPICC - Senate Labor and Human Resources hearing is scheduled for Tuesday, July 21.

Ban on Abortion Procedures - HOUSE: An attempt to override President Clinton's veto of the so-called "Partial-Birth" Abortion Ban has been scheduled for the House floor on Thursday, July 23. The unexpected scheduling of this override attempt was apparently in response to published reports of an incident in Arizona.

According to news reports, on June 30, 1998, a physician at A-Z Clinic in Phoenix, Arizona, began an abortion on a 17-year old woman carrying a fetus estimated to be at 23 weeks. As the procedure began, the doctor recognized that the fetus was significantly more mature than ultrasound appeared to indicate. A six-pound, two-ounce girl was delivered; the woman and baby were transferred to a local hospital. The baby had a fractured skull and facial lacerations. The identities of the woman and baby have remained confidential to date. For more information about the incident, see the media alert emailed to affiliates on July 9, 1998.

Following media reports on this incident, House sponsors of HR 1122, the so-called "Partial-Birth" Abortion Ban, announced that the House will attempt to override President Clinton's veto of HR 1122 on Thursday, July 23. There are sufficient votes in the House to obtain the two-thirds vote necessary to override a presidential veto. Action in the Senate is not expected until after Labor Day.

We have talking points on the Arizona incident prepared, if you want them.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Andrea Kane (CN=Andrea Kane/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:10-JUL-1998 18:34:28.00

SUBJECT: California Welfare-to-Work Grant

TO: Karen Tramontano (CN=Karen Tramontano/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: Diana Fortuna (CN=Diana Fortuna/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

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

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

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

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

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

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

TEXT:

DOL is ready to release California's Welfare-to-Work formula grant, which is \$190 M. It doesn't look like either POTUS or VPOTUS will be in California in the near future and DOL wants to get the grant out by the end of July so the program can get up and running. The VP's office has expressed interest in doing some kind of announcement, probably before he leaves for Russia. One suggestion from DOL was to announce it at weekly Wednesday meeting of California Dem delegation, but they don't think they could pull this off for 7/15, 7/22 would be after VPOTUS is gone, so this leaves 7/29. Other possibilities would be some kind of statement or release, and a phone call to key members/electeds. Does anyone have any other ideas for either POTUS or VPOTUS involvement?

There is an outstanding FLSA issue in CA's TANF program, but it's my understanding that DOL is satisfied with the assurances CA has made in its WTW Plan.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Kate P. Donovan (CN=Kate P. Donovan/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:10-JUL-1998 19:23:48.00

SUBJECT: Senate Agriculture SAP

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

READ:UNKNOWN

TO: Kerri A. Jones (CN=Kerri A. Jones/OU=OSTP/O=EOP@EOP [OSTP])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

CC: Charles R. Marr (CN=Charles R. Marr/OU=OPD/O=EOP@EOP [OPD])

READ:UNKNOWN

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

READ:UNKNOWN

CC: Charles Konigsberg (CN=Charles Konigsberg/OU=OMB/O=EOP@EOP [OMB])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

The draft Senate SAP for Agriculture FY99 Appropriations was cleared a couple of weeks ago but held pending floor action. The Senate now expects to take up the bill Tuesday (7/14). Two new sections (bolded text for your review) have been added concerning FDA/RU 486 and WIC. Please provide comments/clearance by noon, Monday (7/13). Thanks.

S. 2159 -- AGRICULTURE, RURAL DEVELOPMENT
FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES
APPROPRIATIONS BILL, FY

1999

(Sponsors: Stevens (R), Alaska; Cochran (R), Mississippi)

This Statement of Administration Policy provides the Administration's views on S. 2159, the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, FY 1999, as reported by the Senate Appropriations Committee. Your consideration of the Administration's views would be appreciated.

The Administration appreciates efforts by the Committee to accommodate the President's priorities within the 302(b) allocation. However, the allocation is simply insufficient to make the necessary investments in programs funded by this bill, as discussed below. The only way to achieve the appropriate investment level is to offset discretionary spending by using savings in other areas. The President's FY 1999 Budget proposes levels of discretionary spending for FY 1999 that conform to the Bipartisan Budget Agreement by providing savings through user fees and certain mandatory programs to help finance discretionary spending. In the recently enacted Transportation Equity Act, Congress -- on a broad, bipartisan basis -- took similar action in approving funding for surface transportation programs paid for with mandatory offsets. We want to work with the Congress on mutually-agreeable mandatory and other offsets that could be used to increase high-priority discretionary programs, including those funded by this bill. In addition, we urge the Congress to adopt the user fee proposals included in the President's budget, which would enable over \$600 million to be directed to important initiatives such as those proposed for food safety, nutrition programs, rural development, and conservation.

Below is a discussion of our specific concerns with the Committee-reported bill. We look forward to working with you to resolve these concerns as the bill moves forward.

Civil Rights

The Administration is working to include in the bill a provision that waives the statute of limitations for individuals who have previously filed a discrimination claim against USDA. The President is personally committed to righting any wrongs committed by USDA employees in years past, and a great many individuals who were discriminated against will have no recourse unless the statute of limitations is waived for them. We will continue to work to identify appropriate offsets for the cost of this waiver.

In a number of areas, the Committee has reduced funds to assist the most needy farmers and members of the rural community. The Committee does not provide the requested increase for the Outreach for Socially Disadvantaged Farmers program, which was a key recommendation of the Civil Rights Action Team (CRAT) report last year. With the additional \$7 million requested, USDA could support 35 projects to assist 10,000 small family farms and stem the continuing reduction in the number of minority farmers and ranchers.

Another recommendation in the CRAT report is to increase the amount of farm ownership loans, a portion of which are targeted to minority and beginning farmers. The Administration urges the Senate to

provide the additional \$3 million requested for this program by the President, which would permit another 290 limited-resource farmers to finance real estate purchases. This increase could be offset by approving the request to eliminate the Forestry Incentives Program, which promotes timber production on private lands.

Food Safety Initiative

The Administration is deeply concerned that the Committee has not fully funded the President's request for Food and Drug Administration (FDA) and USDA activities to enhance food safety, providing only \$2.6 million out of the \$101 million the President has requested for these activities, \$96 million of which is requested in this bill. American consumers enjoy the world's safest food supply, but too many Americans get sick, and in some cases die, from preventable food-borne diseases. The President's budget increase would expand food safety research, risk assessment capabilities, education, surveillance activities, and food import inspections. We want to work with the Congress to explore user fee options within FDA and USDA that can be used to offset the cost of the needed increases in these programs as well as provide funds to modernize further the meat and poultry inspection system.

Food and Drug Administration: Drug Safety

The Administration would strongly oppose an amendment that may be offered that would intervene in the drug safety practices of the Food and Drug Administration (FDA) and place restrictions on scientific research that can protect women's health and offer safe medical choices. We urge the Senate not to include language that would interfere with the FDA's continued use of rigorous testing and the highest scientific standards to protect the public health. [If such language is included in the bill presented to the President, the Secretaries of Health and Human Services and Agriculture would recommend that he veto the bill.]

Women, Infants, and Children

The Committee bill would freeze funding for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC) at the FY 1998 level of \$3.9 billion, \$157 million below the President's request. This would only support a participation level of between 7.3 and 7.4 million women, infants, and children, and, based on FY 1998 year-end projections, would mean cutting off over 100,000 needy participants from the program. The President's request would maintain participation at 7.5 million, fulfilling the bipartisan commitment to fully fund WIC. The Administration strongly encourages the Senate to fund WIC at the President's requested level.

On language issues regarding administration of the WIC program, the Administration prefers the language included in the President's budget, in order to maintain the viability of infant formula rebates and so that funds are used to satisfy the highest priority WIC needs first. The Administration also supports transferring the Farmers' Market Nutrition Program to the Commodity Assistance Program, in order to prevent the diversion of already limited WIC resources from supporting program participation.

Arms Export Control Act Modification

The Administration supports section 738, which will ensure that American farmers can continue to export wheat and other commodities to

India and Pakistan through USDA export assistance programs. As the President recently announced, in the sanctions the U.S. is applying toward those countries, we are attempting within the constraints of the Act to minimize the humanitarian impact on their people and adverse effects on American agriculture. Cutting off the supply of U.S. wheat would only hurt the citizens of Pakistan and India, as well as American farmers, without furthering the goal of nuclear nonproliferation.

Rural Development Funding

The Administration strongly objects to the Committee's blocking the mandatory Fund for Rural America from being used in FY 1999. The Fund provides additional resources for rural development and innovative agricultural research that are vitally needed to improve the quality of life in rural America and increase the productivity of U.S. farmers. The intent of Congress in creating the Fund in 1996 was to boost the overall Federal investment in these activities, not to offset discretionary spending in them. Furthermore, Congress recently extended the authority for the Fund while increasing its resources. We urge the Senate to strike this provision.

In addition, the Committee has not fully funded the President's request for the Rural Community Advancement Program (RCAP), underfunding direct loans for water and wastewater and for community facilities. These loans provide the community infrastructure needed to improve the quality of life of rural Americans, and often finance the vital ingredient for diversifying the rural economy. The Committee bill would result in an estimated 35 fewer water and wastewater facilities serving 50,000 rural residents, and 75 fewer rural health clinics, police and fire stations, and child care facilities being built. Furthermore, for the RCAP program to be adaptable to unique local economic development needs, as envisioned in its 1996 Farm Bill authorization, the Senate should strike the Committee's limitation on the flexibility to transfer funds among programs and allow the program to be implemented as authorized.

Food and Drug Administration

The Administration strongly urges the Congress to provide the full \$1,251 million in resources to fund the program level proposed for the Food and Drug Administration (FDA) in the President's budget. The Administration is deeply disappointed and concerned that the Committee has not funded the President's request for FDA's tobacco enforcement activities. This funding is vital to the Administration's plan to reduce youth smoking. Congress's failure thus far to pass comprehensive tobacco legislation should not prevent the Committee from providing adequate resources for these critical public health activities. We will work with the Congress to develop the appropriate means of funding.

Agricultural Research

The Committee bill includes over \$50 million in unrequested earmarks for lower-priority research while funding competitive grants through the National Research Initiative (NRI) at \$33 million below the President's request. The rejection of additional funds for competitive research grants for national and regional priorities, in favor of earmarked grants for more local or industry-specific requests, will slow progress toward addressing the most pressing needs of American agriculture and food consumers, and we urge the Senate to reverse this course of action. It can do so not only by reducing earmarked grants in the bill, but by reducing the \$9 million in unrequested increases for the

Agricultural Research Service's buildings and facilities program. A task force created by the 1996 Farm Bill to review the Nation's agricultural research facilities comprehensively is due to report to Congress next year, and further construction should be minimized until the Administration and Congress have had the opportunity to review the report.

Climate Change and Clean Water Initiatives, and Conservation Programs

The Committee has not provided any of the \$7 million increase requested for additional research as part of the Administration's Climate Change Technology Initiative. These funds would support high-priority research to reduce emissions of greenhouse gases caused by agricultural practices, develop improved feedstocks that can be used to generate energy, and improve techniques to convert agricultural products to biofuels. The Administration urges the Senate to provide the necessary funding.

The Committee also has not included the Administration's requested increase of \$23 million for the Natural Resources Conservation Service (NRCS) to implement the President's Clean Water Action Plan to help State and local organizations hire watershed coordinators, document baseline conditions, and target resources to farmers requesting assistance. The Plan, developed by USDA and EPA, outlines a strategy on how to address water quality problems, including polluted runoff, in watershed areas across the Nation. The Administration urges the Senate to provide these necessary funds to the NRCS.

In addition, the Administration is concerned with reductions in the Committee bill to USDA mandatory conservation programs. The bill eliminates funds to carry out a Conservation Farm Option program, and reduces signups under the Wetlands Reserve Program by 25,000 acres, to 140,000 acres. These programs provide technical and financial assistance to farmers to enable them to manage their land efficiently while providing environmentally-beneficial improvements to wetlands, wildlife habitat, soil erosion, and water quality. Taken together, the reductions in the bill to conservation and environmental programs are objectionable, and we want to work with the Senate to restore funding in this area.

Other Issues

Additional funds are needed for the farm labor housing program to improve the living conditions many farm labor families endure. The Committee's level of \$16 million in direct loans is more than 50 percent below the Administration's request and, when coupled with the bill's \$3 million reduction below the request for farm labor grants, would mean that over 350 fewer housing units would be built compared with the request. We urge the Senate to increase funding to assist these needy members of our society. This could be achieved by shifting \$11.5 million from the amount in the bill that is in excess of the President's request for multi-family housing direct loans.

The Committee bill includes a \$20 million reduction to the President's request for the mandatory Emergency Food Assistance Program (TEFAP), which purchases commodities for individuals greatly in need of assistance. Given reported increases in need for food assistance through food banks and soup kitchens, the Administration is concerned that this reduction from the authorized level would mean less food will reach the most vulnerable Americans.

The Administration objects to section 721 of the Committee bill, which

would limit Executive Branch review of USDA responses to congressional inquiries. Congress expects the Administration to be responsible for agency activities. This provision erodes that responsibility and is contrary to the widespread congressional view that more, not less, accountability is needed for improved management results. The Administration urges the Senate to delete the provision.

The Administration objects to section 735 of the Committee bill, which would prohibit the Food and Drug Administration (FDA) from consolidating laboratory operations. The proposed consolidation offers the opportunity for better efficiency and mission coordination, and it is part of FDA's overall streamlining goals. This provision would force FDA to spend funds on infrastructure that could otherwise be used more directly to protect public health. The Administration urges the Senate to delete this provision.

The Committee has provided none of the requested \$22 million increase for the Inspector General as part of the Administration's law enforcement initiative. This USDA initiative would save taxpayers millions of dollars lost through fraud in the food and nutrition programs, in USDA disaster, multi-family housing, and other programs, as well as improve the integrity of USDA programs. The Administration urges the Senate to increase funds for this important initiative.

The Committee bill provides funding for research on nutrition programs within the Food and Nutrition Service (FNS). The Administration is very pleased that funding for these activities is returned to the FNS, where research on nutrition programs will occur in the context of the program's administration.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Andrea Kane (CN=Andrea Kane/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:11-JUL-1998 05:58:13.00

SUBJECT: Heads up on sad welfare to work story

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

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

DOL just told me that Katherine Boo from Washington Post may run a story this weekend about one of DOL's welfare-to-work federal hires who was recently involved in a child abuse incident (I understand there was a story in the Metro section within the last week about the incident, though it did not mention the connection with DOL/welfare to work). Apparently the woman and her boyfriend were babysitting someone else's child and the child was scalded. The woman is out on bail and the judge told her to return to work. She has talked to the Post. I imagine questions would go to DOL's press office, but just wanted to give you a heads up.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Christopher C. Jennings (CN=Christopher C. Jennings/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:13-JUL-1998 01:22:04.00

SUBJECT: patients' bill o' rights

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TEXT:

We are semi-on-track for at least two patients' bill of rights events for the President. The first would be on Wednesday with the AMA for a roundtable discussion with patients, doctors, and perhaps nurses to document the real-life tragedies that have resulted from actions/non-actions by managed care plans. We spoke with AMA reps over the weekend and they assured us that they want to work with us to deliver a good event. (At this event, we could also announce the implementation of the Presidentially-ordererd appeals rights at the DVA.)

On Thursday, we are currently contemplating a POTUS Democratic unity event on the Hill that would likely include the release of a new Families USA report. This report documents how many Republican Governors and legislatures have already enacted many of these rights. (The report undermines charges that a PBo'R bill represents a Government take-over, all-the-while also emphasizing the need for uniformity and how far short the state-passed protections go.) It could also include the release of the CBO numbers for the Dingell-Ganske bill. (As of this writing, however, the Hill is currently targeting Tuesday for the release of the CBO numbers.)

The Hill also has asked the AMA to attend, but the association is nervous and thinks it is politically unwise to make this a Democrats-only unity event. They believe (and I agree) it undermines the success that Senator Kerrey and others have had -- as recently as on "THIS WEEK" -- in characterizing this as a bipartisan bill that the Republican Leadership and their followers are tying up. Perhaps we should suggest that Ganske and other Republicans (who we think helpful and appropriate) should come?

The Democrats on the Hill are tentatively preparing at least three events:

1. Tuesday -- The Hill Democrats have just recently concluded that it would be advisable to release the CBO numbers on the Dingell-Ganske bill on Tuesday. They thought it should be a separate news story. (I think this is an unwise decision and hope that we can push back the release of these numbers a couple of days; I fear that an early release will be the big news story of the week and, although the numbers should be viewed fairly positively, they will not get a free ride from the the Republican Leadership OR the press.
2. Wednesday -- The Hill mock hearings appear to be locked in. Our only outstanding question is how we assure that the hearing does not coincide with the POTUS AMA event; the Hill doesn't want our event to swallow their hearing.
3. Thursday -- The Hill event with the President in conjunction with the release of the Familes USA state-by-state report is getting locked down. I do think, however, that we need to discuss the potential downside of doing this with no Republicans. It could play right into the media perception that we are looking for an issue -- not a strong, bipartisan, enforceable bill. (If we decide that we would be better served by the release of the CBO numbers on Thursday , it is possible we could convince the Hill Dems to hold off until then; should we do a quick Hill consultation call later today?)

cj

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-JUL-1998 11:00:24.00

SUBJECT: Civil rights: I don't think you dealt with this before you went on vacatio

TO: Elena Kagan (CN=Elena Kagan/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:

Could you let me know if this is OK with you?

----- Forwarded by Diana Fortuna/OPD/EOP on 07/13/98

10:59 AM -----

Diana Fortuna

06/25/98 12:20:22 PM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc: Laura Emmett/WHO/EOP, Cynthia A. Rice/OPD/EOP

Subject: It would be helpful to get a read from you on this in the next few days

It's OK with Eddie Correia and Cynthia.

----- Forwarded by Diana Fortuna/OPD/EOP on 06/25/98

12:23 PM -----

Diana Fortuna

06/19/98 05:16:16 PM

Record Type: Record

To: Elena Kagan/OPD/EOP, Cynthia A. Rice/OPD/EOP, Edward W. Correia/WHO/EOP

cc: Laura Emmett/WHO/EOP

Subject: Just when you thought this civil rights guidance on welfare reform thing was resolved...

HHS had a counter-suggestion to our suggestion. Actually, I'm not sure it's so bad. HHS's concern about our suggested language was that it appeared too much to invite racially neutral criteria with a disproportionate impact. But their new effort is more positive than their old. I think it's OK, although maybe I'm just getting tired. Is this OK with everyone?

Intro:

The Act imposes a 5-year limit on receipt of TANF benefits. However, a state may allow hardship exemptions from the time limit for up to 20%of its caseload.

DPC Suggestion:

A racially neutral criterion that excludes a disproportionately greater number of minorities than non-minorities is permissible, so long as there is a substantial and legitimate justification for this criterion and there is no comparably effective alternative that excludes fewer minorities.

HHS Counter-Suggestion:

States should take care in establishing the criteria for allowing such exemptions particularly where racially neutral criteria exclude a disproportionately greater number of minorities than non-minorities. Neutral criteria that cause a significantly disproportionate exclusion are permissible, only so long as there is a substantial and legitimate justification for these criteria and there is no comparably effective alternative that excludes fewer minorities.

[For those who want to cast their minds back, here is HHS's original version that we didn't like, FYI.]

HHS Original Version:

States and counties may not use a racially neutral criterion that, nevertheless, excludes a disproportionately greater number of minorities than non-minorities to determine who will be granted this exemption, unless there is a substantial and legitimate justification for this criterion. Even if there is such a justification, this criterion cannot be used if there is a comparably effective alternative to identify persons who qualify for this exemption that excludes fewer minorities.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Andrea Kane (CN=Andrea Kane/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:13-JUL-1998 11:21:17.00

SUBJECT: NACO and welfare reform

TO: Diana Fortuna (CN=Diana Fortuna/OU=OPD/O=EOP [OPD])
 READ:UNKNOWN

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

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

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

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

TEXT:

FYI, there is one line about welfare reform in remarks POTUS is taping for NACO meeting on 7/19. With my edits, it says:

"We're addressing the challenges of moving people from welfare to work, many of which are outlined in the study NACO is releasing at this conference."

NACO's study called "Is Welfare Reform Working: A Study of the Changing Welfare System in Counties" is a follow-up on welfare reform in the four areas where NACO conducted hearings in 1997 (Fulton Co, GA; Hennepin/Ramsey Cos, MN; Santa Clara Co, CA; Dade Co, FL). They also sent a questionnaire to 85 other counties. The basic message is constructive: "NACO is committed to making welfare reform work", ...there are many positive signs (caseload reductions, new partnerships), but there is much more to learn about long-term effects. The report applauds restoration of SSI and food stamps, and Access to Jobs, but raises concerns about congressional attempts to cut TANF.

Recommendations (I've asked HHS and DOL to take a look at these):
 Eliminate separate participation rate for two-parent families, or at least eliminate 90% requirement.

Ease match requirement for Welfare-to-Work formula grants--prefer ATJ model which allows using other federal funds as match. (They indicate that match issue is why some states have turned down formula grants). Counties in states that reject formula grants should be allowed to access funds directly.

Give states and counties additional funds and technical assistance to monitor effect of welfare reform on other systems and to track families once they leave welfare.

Key Points:

Counties who responded to survey said the largest percentage of individuals who have left the welfare rolls have done so for full-time employment in the private sector, and the majority have remain employed for at least 6 months. (The actual data are rather odd--I'm trying to get some clarification from NACO).

Counties expect to meet all family participation rates for now, but worry

about two-parent rates and continuing success once they get to harder cases.

Too early to tell long-term effects; counties are just beginning to track what happens to people; time limits not yet a major factor. Some evidence of increased use of food banks attributed to ABAWD and legal immigrant provisions.

Collaboration is most consistent theme--with Chambers, neighboring jurisdictions, CBOs, businesses, faith community, foundations. CA, CO, MD, NC, OH and WI are providing additional flexibility to counties. While most counties expect to meet current child care demand, they anticipate shortages in the future. NYC anticipates need to add 30,000 slots over next few years to respond to increased work by TANF families and working families, at estimated cost of \$150 M by 2001. Biggest need is infant care, along with care for off-peak hours and special needs children.

The report also highlights some interesting innovations in several areas. For example, Santa Clara has a "JobKeeper: 24 hours Job Support Hotline" to help people resolve crises such as child care and transportation. Monterey County has developed a continuum of intensive substance abuse services for people moving from welfare to work. The Full Employment Council in Kansas City will provide a voucher worth up to \$1,800 to repair or buy a car, housing car insurance, continuing education, work tools/clothes, or substance abuse treatment for people who retain their jobs for at least nine months.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Kate P. Donovan (CN=Kate P. Donovan/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:13-JUL-1998 13:14:23.00

SUBJECT: Follow-up on update to Senate Agriculture SAP

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

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

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

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

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

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

TO: Kerri A. Jones (CN=Kerri A. Jones/OU=OSTP/O=EOP@EOP [OSTP])
READ:UNKNOWN

TO: Kathleen A. McGinty (CN=Kathleen A. McGinty/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN

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

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

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

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

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

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

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

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

READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TEXT:

FYI, it is our understanding that Elena Kagan is following up with HHS to possibly send a letter regarding the Coburn amendment (instead of including reference in the Senate Agriculture SAP).

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Steve B. Chu (CN=Steve B. Chu/OU=PIR/O=EOP [PIR])

CREATION DATE/TIME:13-JUL-1998 13:14:30.00

SUBJECT: Weekly

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

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

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

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

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

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

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

TO: edley (edley @ law.harvard.edu @ INET @ LNGETWY [UNKNOWN])
READ:UNKNOWN

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

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

READ:UNKNOWN

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

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

TO: Oliver G. McGee (CN=Oliver G. McGee/OU=OSTP/O=EOP @ EOP [OSTP])
READ:UNKNOWN

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

TO: Doris O. Matsui (CN=Doris O. Matsui/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

TEXT:

Here is the weekly report for the week of July 9, 1998.

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D84]MAIL42268539W.126 to ASCII,
The following is a HEX DUMP:

FF5750432F310000010A020100000002050000004E9C000000020000480023C0D0BA7CF70BCAB1

.....MEMORANDUM TO THE PRESIDENT

FROM: JUDITH A. WINSTON

THROUGH: ERSKINE BOWLES
MARIA ECHAVESTE

DATE: JULY 9, 1998

SUBJECT: PRESIDENT'S INITIATIVE ON RACE WEEKLY REPORT
JULY 3 - JULY 9

PBS Panel Discussion. Your discussion about "Race in America" on the NewsHour with Jim Lehrer was very successful and received extensive press coverage. Governor Winter and Angela Oh will be participating in an on-line discussion next week on PBS about the issues raised in your conversation. I have attached two articles about the discussion for your information.

ADVISORY BOARD ACTIVITIES

Dr. Franklin's Letter Regarding the Denver Advisory Board Meeting. On July 7, the Associated Press filed a story about Dr. Franklin's June 16, 1998, letter to you regarding the Advisory Board's March meeting on stereotypes. The wire story generated press attention about the letter. Dr. Franklin's letter highlighted some of the presentations of the expert panelists -- including the view that "aspir(ing) to a 'colorblind' society is an impediment to reducing racial stereotyping" -- and provided recommendations from the Advisory Board. The press article created some confusion because it characterized the panelist information as a recommendation of the Advisory Board. The June 16 letter and the AP story are attached for your information.

Race and Health Meeting. On July 10, Dr. John Hope Franklin, Governor William Winter, Governor Thomas Kean, PIR Senior Consultant Laura Harris, and I attended a meeting sponsored by the Department of Health and Human Services on issues relating to race and health. Dr. David Satcher, Assistant Secretary for Health and Surgeon General of the United States, gave a strong, insightful address about the need for continued

aggressive actions to close disparities in health and health care access.

Race and Immigration Meeting. On July 13, Dr. John Hope Franklin, Angela Oh, Governor William Winter and Linda Chavez-Thompson will attend a conference on race and immigration sponsored by the Carnegie Endowment for International Peace and the Georgetown University Law Center. The meeting will include a discussion of immigration issues and examine promising practices.

American Friends in London. On July 3, Reverend Dr. Suzan Johnson Cook spoke to 25 business leaders at a meeting of the American Friends in London. She spoke to this group about the importance of the Initiative and the private sector's role in promoting One America.

Orange County Women Lawyer's Association. On July 7, Angela Oh spoke about the Initiative to 50 participants at the Orange County Women Lawyers Association in Orange County, California.

Fisk University Race Relations Institute. On July 8, Dr. John Hope Franklin delivered the keynote address at Fisk University's 32nd annual Race Relations Institute.

California School Administrator's Summer Institute. On July 9, Angela Oh spoke about the Initiative to the principals of all of California's public schools at the California School Administrator's 1998 Summer Institute in Los Angeles, California.

Women's Political Caucus. On July 10, Angela Oh spoke to the Santa Barbara's Women's Political Caucus about the Initiative in Santa Barbara, California.

OFFICE OF THE EXECUTIVE DIRECTOR

United States Virgin Islands Emancipation Day. Last week, at the request of Governor Roy L. Scheider, I participated in several programs commemorating the 150th Anniversary of the emancipation of slaves in the Virgin Islands (1848). I used the occasion to discuss the objectives and progress of the Race Initiative and to urge Virgin Islanders to join in the effort to build one America. The Islands have been experiencing some racial and ethnic tensions as increasing numbers of immigrants enter the Territory from other largely Spanish-speaking Caribbean islands. During the various ceremonies commemorating the emancipation, I accepted on your behalf a handsome clock made of Virgin Island mahogany and the Governor's Medal of Freedom (the bronze replica will be replaced by a silver medal). They are being shipped to you and should arrive shortly. The Governor will be sending you a silkscreened replica of the Emancipation postage stamp with an official July 3, 1998 cancellation stamp attractively bound in a leather case suitable for your Presidential library should you choose to place it there.

Joint Center for Political and Economic Studies. On July 7, I spoke to the Board of Governors of the Joint Center for Political and Economic Studies. I discussed with the 50 people in attendance the policies that the Administration has developed in conjunction with the Initiative.

FEDERAL AGENCY ACTIVITIES

Department of Justice

Native American Conference. The Eastern and Western Districts of Wisconsin will host the "Great Lakes Native American Conference." This is a multi-disciplinary conference for representatives from human services, education, clergy and victim services, and for tribal leaders. Topics will include federal domestic violence initiatives, elder abuse, and building on the strengths of Native American families.

Department of Interior

Civil War Memorial. Celebration events surrounding the unveiling of the African-American Civil War Memorial to 235,000 African-American soldiers and their white officers who fought in the Union Army are scheduled for July 15-18. The events are presented by the African-American Civil War Memorial Freedom Foundation. Events include an Arlington Memorial Sunrise Service and Commemoration Ceremony at the U.S. Capitol Rotunda, July 16; a Ford's Theater program to honor those who worked on the data entry of over 235,000 names of the U.S. Colored Troops, July 17; and a parade of U.S. Colored Troops re-enactors along historic Georgia Avenue and the unveiling of the "Spirit of Freedom" bronze sculpture by Ed Hamilton in honor of the U.S. Colored Troops, July 18.

Women's History. NPS has announced a new on-line National Register of Historic Places travel itinerary, "Places Where Women Made History." This itinerary is being launched to coincide with the celebration of the 150th anniversary of the first Women's Rights Convention taking place at the NPS Women's Rights National Historical Park in Seneca Falls, NY, from July 10 to 19. The travel itinerary focuses on 74 historic places in NY and MA associated with various aspects of women's history and is located on the NPS' web site at <http://www.cr.nps.gov/nr>. The itinerary includes interactive maps, a description of each place's significance in women's history, essays on women's achievements in American history, photographs and information on public accessibility of each historic place.

National Indian School Board Association. On July 29, Assistant Secretary for Indian Affairs Gover will be the keynote speaker for the National Indian School Board Association in St. Paul, MN.

Department of Commerce

Black Chamber of Commerce. On July 10, Deputy Secretary Robert L. Mallett gave the keynote address at the Plenary Session of the Sixth Annual Black Chamber of Commerce Convention in Baltimore, MD.

Department of Labor

Women's Rights Convention. On July 17, Secretary Herman will make remarks at the 150th Women's Rights Convention in Seneca Falls, NY.

Department of Housing and Urban Development

National Hispanic Leadership Agenda. On July 10, Secretary Cuomo participated in a meeting with the National Hispanic Leadership Agenda.

NAACP Annual Convention. On July 14, Secretary Cuomo will address the NAACP at their annual convention in Atlanta.

Tribal Housing. On July 21-22, Secretary Cuomo will tour tribal housing in Alaska.

Department of Transportation

Hispanic Coalition Conference. On August 4, FAA Administrator Jane F. Garvey will speak at the FAA Hispanic Coalition Conference in Dallas, TX.

Department of Veterans Affairs

NAACP Annual Convention. Representatives from the Department of Veterans Affairs will participate in the 89th Annual National Convention of the NAACP, July 11-17, in Atlanta, GA. VA's participation includes display booths, health assessment screening, benefits counseling, and a veterans workshop. VA will also focus on building a coalition for outreach to minority veterans and to veterans in rural and isolated areas through a joint partnership between VA and some 600 NAACP veterans' affairs offices around the Nation.

Office of Personnel Management

Hispanics in Federal Workforce. Director Lachance will visit San Antonio, TX on July 9 and 10 and advance efforts to recruit, retain and advance Hispanics in the federal workforce in two public events (a meeting of the San Antonio Federal Executive Board and the TX Labor/Management Partnership Conference), a meeting with the Hispanic Association of Colleges and Universities, and through media sessions, including editorial board meetings. She will deliver the Partnership Conference keynote address on July 10.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-JUL-1998 13:26:16.00

SUBJECT:

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

TEXT:

1:30 Child Custody mtg. is in rm 472 OEOB & at 2:30 there will be brief
EEOC Mtg. in 211 w/ Maria, Minyon & Julie

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-JUL-1998 15:28:38.00

SUBJECT: OFCCP and testers

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

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

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

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

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

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

TEXT:

I spoke with Gayle Black from OFCCP. The OFCCP started their testing program in 1995, and so far has run one test: on entry-level banking jobs in the D.C. area. They tested 13 banks and then shared the information with the banks. This was all done in the context of compliance, and there was no enforcement angle and no sanctions of any kind. The banks, though not happy that some discrimination was found, were pleased with the feedback that they received. On July 21st, the American Bankers Association is having a press conference to unveil a guidebook that was developed in conjunction with the OFCCP and others. According to Gayle, the ABA has said that they would be happy to support the use of testers by the DOL in compliance efforts.

The OFCCP has plans to do other tests in other areas and industries, however nothing has yet been finalized. They, like HUD, hired a not-for-profit organization to run the test, and thus did not themselves employ testers.

julie

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-JUL-1998 15:37:22.00

SUBJECT: girls nation/tobacco

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

READ:UNKNOWN

TEXT:

i'm on deck for the friday Girls Nation remarks, which i hear, will be about tobacco. do you have any guidance?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Kate P. Donovan (CN=Kate P. Donovan/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:13-JUL-1998 16:08:28.00

SUBJECT: Update on Agriculture Senate SAP

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

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

READ:UNKNOWN

TO: Kerri A. Jones (CN=Kerri A. Jones/OU=OSTP/O=EOP@EOP [OSTP])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TEXT:

A decision has been made not to include the veto and reference to the Coburn amendment (FDA - Drug Safety) in the Senate Agriculture SAP. Therefore, we aim to send the SAP immediately - please call me at 5-4790 if you have any problems. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-JUL-1998 16:19:43.00

SUBJECT: Re: girls nation/tobacco

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

READ:UNKNOWN

TEXT:

thanks

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-JUL-1998 16:57:51.00

SUBJECT:

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

TEXT:

Tarplin 690-7627 and Doug Baird 773-702-9495 just called

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Kate P. Donovan (CN=Kate P. Donovan/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:13-JUL-1998 17:00:18.00

SUBJECT: URGENT: TRANSPORTATION APPROPS. SENATE LETTER

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

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

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

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

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

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

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

TO: Kerri A. Jones (CN=Kerri A. Jones/OU=OSTP/O=EOP@EOP [OSTP])
READ:UNKNOWN

TO: Kathleen A. McGinty (CN=Kathleen A. McGinty/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN

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

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

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

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

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

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

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

READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TEXT:

Below is the draft Senate Committee letter for FY99 Transportation Appropriations. Please note the Secretarial veto recommendation regarding project labor agreements. Senate markup is tomorrow, Tuesday, at 9:30am. Therefore, we need to send the letter tonight. Please provide comments/clearance no later than 7pm. Thanks.

The Honorable Ted Stevens
Chairman
Committee on Appropriations

United States Senate
Washington, D.C. 20510

Dear Mr. Chairman:

The purpose of this letter is to provide the Administration's views on the Department of Transportation and Related Agencies Appropriations Bill, FY 1999, as reported by the Senate Subcommittee. As the Committee develops its version of the bill, your consideration of the Administration's views would be appreciated.

The Administration appreciates the Subcommittee's effort to include in its bill many of the priorities recently agreed to by the President and Congress in the Transportation Equity Act for the 21st Century (TEA-21). However, the Administration is concerned that the Subcommittee's bill could seriously disrupt air transportation safety, and vital Federal Aviation Administration (FAA) and Coast Guard modernization programs, and delay Amtrak's progress towards operating self-sufficiency. The Committee could accommodate the funding increases recommended below by adhering more closely to the President's request for the Airport Grants program, High Speed Rail, Coast Guard Alteration of Bridges, and other programs. The bill also includes a number of objectionable language provisions. In particular, the Secretary of Transportation has indicated he would recommend that the President veto the bill if it includes section 322, which could severely limit the use of project labor agreements. These concerns are discussed below.

Air Transportation and Highway Safety

The Administration strongly urges the Committee to restore the \$50 million reduction to FAA Operations and eliminate the earmarks for low-priority programs, such as subsidies for non-cost beneficial contract towers. These funds are necessary to ensure that the FAA can hire the security personnel and safety inspectors needed to meet the demands from increased air travel. To adequately protect the safety of automobile travelers, we ask that the Committee work with the authorizers and provide an additional \$12 million for high priority National Highway Traffic Safety Administration (NHTSA) programs.

FAA and Coast Guard Modernization

The Administration is concerned about language that is intended to constrain outlays for FAA Facilities and Equipment in FY 1999. We question whether this provision can be implemented and, if so, whether it would lead to unintended and unfavorable programmatic effects. We look forward to working with the Committee to address our concerns. In addition, we urge the Committee to fund fully the President's request for the Facilities and Equipment account -- funding at any lower level could delay National Airspace System modernization.

The Administration objects to the virtual elimination of funding for the Flight 2000 program. This program is a key element of the FAA's plans to make a transition to a more efficient, user involved, satellite-based air traffic control system to meet the air traffic need of the next century. The Committee is requested to provide the \$100 million in the FAA Facilities and Equipment account to deploy explosive detection systems. The Subcommittee's decision to provide up to \$100 million for this purpose in the Airport Grants account would preclude the FAA from deploying these systems based on security requirements and may result in fewer systems being deployed.

The Administration opposes the Subcommittee's reduction of \$57 million to the President's request of \$443 million for Coast Guard capital investments. These capital projects provide long-term operating savings and are necessary to ensure that the Coast Guard has the necessary infrastructure to fulfill its maritime safety, drug interdiction, environmental protection, and national security goals.

Amtrak

The Administration strongly urges the Committee to provide Amtrak with the ability to invest its capital funds flexibly, as presently done by Federal Transit Administration grantees, and to make the funds available on October 1st. In addition, as this bill moves forward, we urge Congress to fund fully the President's request for Amtrak so that it can carry through on the bipartisan five-year reform plan envisioned by the Amtrak Reform and Accountability Act of 1997.

Access-to-Jobs

The Administration requests that the Committee provide an additional \$50 million to fully fund the President's request of \$100 million for the Access-to-Jobs program. This program is a critical component of the Administration's welfare reform effort. Without these funds, many economically disadvantaged individuals will be unable to make the transition from welfare to work.

Civil Rights and Office of the Secretary

The Administration strongly urges the Committee to restore the 20-percent reduction made by the Subcommittee to the funding request for the Office of Civil Rights. This reduction would significantly hamper the Department's ability to enforce laws that prohibit discrimination in Federally operated or assisted transportation programs. We also urge the Committee to provide the President's requested \$62 million for the Office of the Secretary and to delete the Subcommittee's recommended new account structure and limitation on political appointees. These changes are necessary to avoid a reduction-in-force and to allow the Secretary to manage the department effectively.

Earmarks

The Subcommittee has earmarked almost 400 transit projects, as well as many airport, Intelligent Transportation System (ITS) and rail, and infrastructure credit projects. The Administration believes that projects should be funded based upon their merit and that funds should not be directed to low-priority projects that cannot meet established selection criteria.

Language Provisions

Section 322 would preclude the Department of Transportation from using project labor agreements (PLAs), which are a contract mechanism to achieve efficiencies in construction projects. Furthermore, the provision is ambiguous, making its full impact difficult to assess and raising questions as to its applicability to a host of laws and regulations affecting workers. As noted above, the Secretary of Transportation would recommend the President veto this bill if it includes section 322.

The Administration strongly opposes section 342 of the bill, which would allow helicopters to operate and land on Federally-owned lands in

Alaska, including wilderness areas. This would be harmful to species and habitat and disrupt Congress' carefully crafted balance on this issue in the Alaska National Interest Land Conservation Act (ANILCA). Under ANILCA, helicopter landings are permitted for emergency reasons and, on a case-by-case basis, for non-emergency use in non-wilderness areas. The Secretaries of the Interior and Agriculture have previously recommended that bills containing similar provisions be vetoed.

The Administration requests that the Committee delete the provisions in both the Coast Guard and FAA operating expenses appropriations language that would prohibit the Coast Guard and the FAA from evaluating options for collecting fees for their services. User fees may be a critical means in the future for ensuring that the Coast Guard and the FAA have adequate resources to meet their operating and capital needs without significantly reducing other vital transportation programs.

We look forward to working with the Committee to address our mutual concerns.

Sincerely,

Jacob J. Lew
Acting Director

Identical Letter Sent to The Honorable Ted Stevens,
The Honorable Robert C. Byrd, The Honorable Richard C. Shelby,
and The Honorable Frank R. Lautenberg

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-JUL-1998 17:09:14.00

SUBJECT:

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

TEXT:

Please Call Rahm at 62531

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-JUL-1998 18:05:35.00

SUBJECT: Reminder--comments on MNB199, Revised Labor Draft Bill on Trade Adjustment

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

TO: Jon D. Haveman (CN=Jon D. Haveman/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN

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

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

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

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

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

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

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

TO: Christopher D. Carroll (CN=Christopher D. Carroll/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN

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

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

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

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

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

TEXT:

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

Please provide all comments no later than COB tomorrow, July 14th. If I do not hear from you, I will assume you have no comments and will proceed with clearing the bill.

Please call (5-7887) if you have comments or questions. Thanks!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-JUL-1998 19:37:42.00

SUBJECT: Floor fight on sexual orientation executive order

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

TEXT:

The Hefley amendment, which tries to block any funding for enforcement of the sexual orientation executive order, will probably come up for a vote later in the week. We met with the Human Rights Campaign and Martha Foley last week, who both thought this would be a close vote. Richard Socarides and others thought that a legal letter would help some of the undecided folks join in opposing the Hefley amendment.

Richard asked the counsel's office to draft a letter which essentially is a legal opinion that refutes the Republican arguments on the executive order, e.g. that the President exceeded his power, etc. Below is a draft.

The current draft of the letter says that the President would veto the bill. We need to decide whether to send this letter and from whom it would come (Chuck Ruff?). Let us know

----- Forwarded by Mary L. Smith/OPD/EOP on 07/13/98
07:02 PM -----

Robert N. Weiner
07/13/98 12:46:20 PM
Record Type: Record

To: Mary L. Smith/OPD/EOP
cc:
Subject: Re: Bullets on sexual orientation executive order

This is still rough.

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D94]MAIL40408049M.126 to ASCII,
The following is a HEX DUMP:

FF57504370040000010A02010000000205000000D21B000000020000C451D26427E1129437634A
DA35E147A3F381B447C632AF918AB46F59E36B2ECE0274A901B6EF231BD7716CB8D935091EE4FA

July __, 1998

The Honorable _____
United States House of Representatives
Washington, D.C.

Dear Congressman _____:

I am writing to state the Administration's vigorous opposition to the amendment offered by Congressman Hefley to H.R. 4104, the Treasury and General Government Appropriations bill for 1999. The Amendment is an effort to legitimize discrimination by the United States government against its own citizens simply based on their sexual orientation. This Administration will not tolerate such gross unfairness, and neither will the American people. If this Amendment is adopted, the President's senior advisers will recommend that he veto the bill.

The Amendment seeks to prevent the Administration from spending any funds to implement, administer or enforce Executive Order 13087, which the President issued on May 28, 1998. That order amends Executive Order 11478, which bars discrimination by the federal government based on race, color, religion, sex, national origin, handicap or age. The amendment merely adds sexual orientation to the list of prohibited bases of discrimination.

The arguments mustered against this Executive Order are spurious. First, the Order confers no "special rights." It bars the Government from discriminating. The right to be free from governmental discrimination is not a special right. It is the inalienable right of every American. No one should be denied a job based on attributes that have nothing to do with their ability.

Second, the wild claims that have been made about what this Executive Order means are false and distorted. The Order is clear. Plainly and simply, it bars discrimination based on sexual orientation in the federal civilian workforce. It does not mandate affirmative action based on sexual orientation. It does not allow preferential treatment. It does not require that agencies find out which of their employees are gay, or how many gay employees they have hired. It does not cover federal contractors. And -- to confront the most irresponsible charges -- it does not authorize sexual misconduct in the workplace. Sexual orientation has the commonly understood meaning stated in the Employment Non-Discrimination Act of 1995, "homosexuality, bisexuality, or heterosexuality." These false issues should be forever laid to rest. This is the President's order, and the President's intent as to what it means is conclusive. See Sea-Land Service, Inc. V. Interstate Commerce Commission, 738 F.2d 1311, 1314 (D.C. Cir. 1984) ("The 'law' at issue in this instance is an Executive Order promulgated by the President, and it is to his intent that we must turn for guidance . . .").

Third, this order does not reflect any new policy and creates no new law. The Civil Service law, enacted in 1978, prohibits "discrimination for or against any employee or applicant

Automated Records Management System
Hex-Dump Conversion

for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others.” 5 U.S.C. 2302(b)(10). In 1980, the Office of Personnel Management interpreted this law to mean what it clearly said, “applicants and employees are to be protected against inquiries into, or actions based upon, non-job-related conduct, such as religious, community, or social affiliations, or sexual orientation.” OPM reiterated this interpretation in 1994 and 1997. Most federal agencies and departments have issued regulations, policy directives, or memoranda from agency heads to implement this law. All President Clinton’s Executive Order does is make the policy uniform for the entire civilian federal workforce.

Fourth, the President unquestionably has the power to issue this Order. Presidents since George Washington have directed Executive Orders to their employees in the Executive Branch. In 1966, Congress specifically authorized the President to “prescribe regulations for the conduct of employees in the executive branch.” 5 U.S.C. § 7301. Presidents have frequently exercised that authority over the federal workforce, issuing scores of Executive Orders. This particular Order by President Clinton amends Executive Order 11478, issued in 1969 by President Nixon, barring federal employees from discriminating based on race, color, religion, sex, national origin, handicap or age. The same authority that supported that Order supports this one. President Reagan issued Executive Order 12564, requiring a drug-free federal workplace, and Executive Order 12353, governing charitable fundraising by federal employees. . President Bush issued Executive Order 12674, setting forth principles of ethical conduct for government employees. It would be nonsensical to contend that the President can regulate the ethical conduct of federal employees, that he can prescribe standards for fundraising and require drug testing, but cannot instruct federal employees to refrain from discriminating on the basis of sexual orientation.

When we strip away all these specious arguments, the sole remaining basis for this appropriations rider is prejudice. That is not an appropriate basis for legislation. We will oppose this effort to sanction discrimination by the federal government.

Sincerely,

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-JUL-1998 20:00:45.00

SUBJECT: Latest Draft of Views Letter

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

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

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

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

TEXT:

----- Forwarded by Mary L. Smith/OPD/EOP on 07/13/98
08:00 PM -----

Robert N. Weiner
07/13/98 07:46:05 PM
Record Type: Record

To: Mary L. Smith/OPD/EOP, Edward W. Correia/WHO/EOP, William P. Marshall/WHO/EOP
cc: James E. Kennedy/WHO/EOP, Karen Tramontano/WHO/EOP
Subject: Latest Draft of Views Letter

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D51]MAIL40958049K.126 to ASCII,
The following is a HEX DUMP:

FF57504370040000010A02010000000205000000A01E000000020000120D963C41F79CE053F735
C134298B59FAC00258F967EFBC128313B3CF4139DB39CB64BCB6E581D8D130E48A5A217F4BD61A
5675F2A91E9945806642699B8F936ACB5A9810191EE00C14C392875B12D3CE1E3F3B8A1395B808

July __, 1998

The Honorable _____
United States House of Representatives
Washington, D.C.

Dear Congressman _____:

I am writing to state the Administration's vigorous opposition to the amendment offered by Congressman Hefley to H.R. 4104, the Treasury and General Government Appropriations bill for 1999. The Amendment would effectively legitimize discrimination by the United States government against its own citizens based solely on their sexual orientation. This Administration will not accept such unfairness. If this Amendment is adopted, the President's senior advisers will recommend that he veto the bill.

The amendment seeks to prevent the Administration from spending any funds to implement, administer or enforce Executive Order 13087, which the President issued on May 28, 1998. That order amends Executive Order 11478, which bars discrimination by the federal government based on race, color, religion, sex, national origin, handicap or age. The amendment merely adds sexual orientation to the list of prohibited bases of discrimination.

The arguments mustered against this Executive Order are unfounded. First, the Order confers no "special rights." It bars the Government from discriminating. The right to be free from governmental discrimination is not a special right. It is the inalienable right of every American. No one should be denied a job based on attributes that have nothing to do with their ability.

Second, many of the claims that have been made about what this Executive Order means are false and distorted. The Order is clear. Plainly and simply, it bars discrimination based on sexual orientation in the federal civilian workforce. It does not mandate affirmative action based on sexual orientation. It does not allow preferential treatment. It does not require that agencies find out which of their employees are gay, or how many gay employees they have hired. It does not cover federal contractors. And -- to address the most outlandish charges -- it does not authorize sexual misconduct in the workplace. Although supporters of the amendment have claimed that the phrase "sexual orientation" is not defined and could cover a wide range of conduct, the President intends the term to have the common meaning stated in the Employment Non-Discrimination Act of 1995, "homosexuality, bisexuality, or heterosexuality." With regard to all these issues, as this is the President's order, the President's intent as to what it means is conclusive. See Sea-Land Service, Inc. v. Interstate Commerce Commission, 738 F.2d 1311, 1314 (D.C. Cir. 1984) ("The 'law' at issue in this instance is an Executive Order promulgated by the President, and it is to his intent that we must turn for guidance . . .").

Third, this order does not reflect any new policy and creates no new law. The Civil

Service law, enacted in 1978, prohibits “discrimination for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others.” 5 U.S.C. 2302(b)(10). In 1980, the Office of Personnel Management interpreted this law to mean what it clearly said, “applicants and employees are to be protected against inquiries into, or actions based upon, non-job-related conduct, such as religious, community, or social affiliations, or sexual orientation.” OPM reiterated this interpretation in 1994 and 1997. Most federal agencies and departments have issued regulations, policy directives, or memoranda from agency heads to implement this law. President Clinton’s Executive Order does merely makes the policy uniform for the entire civilian federal workforce.

Fourth, the President unquestionably has the power to issue this Order. Presidents since George Washington have directed Executive Orders to their employees in the Executive Branch. In 1966, Congress specifically authorized the President to “prescribe regulations for the conduct of employees in the executive branch.” 5 U.S.C. § 7301. Presidents have frequently exercised that authority over the federal workforce, issuing scores of Executive Orders. This particular Order by President Clinton amends Executive Order 11478, issued in 1969 by President Nixon, barring federal employees from discriminating based on race, color, religion, sex, national origin, handicap or age. The same authority that supported that Order supports this one. President Reagan issued Executive Order 12564, requiring a drug-free federal workplace, and Executive Order 12353, governing charitable fundraising by federal employees. President Bush issued Executive Order 12674, setting forth principles of ethical conduct for government employees. It would be nonsensical to contend that the President can regulate the ethical conduct of federal employees, that he can prescribe standards for fundraising and require drug testing, but cannot instruct federal employees to refrain from discriminating on the basis of sexual orientation. Indeed, in accordance with normal procedures, the Department of Justice specifically reviewed and approved this order before it was issued.

Finally, the amendment sends a disturbing message. Whatever the intentions of its supporters, the amendment conveys an unmistakable message that discrimination based on sexual orientation is acceptable. This Administration rejects that message. We oppose discrimination by the federal government, and we oppose this amendment.

Sincerely,

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Kate P. Donovan (CN=Kate P. Donovan/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:13-JUL-1998 20:40:25.00

SUBJECT: Labor/HHS Appropriations Letter - Need clearance

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

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

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

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

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

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

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

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

TO: Kerri A. Jones (CN=Kerri A. Jones/OU=OSTP/O=EOP@EOP [OSTP])
READ:UNKNOWN

TO: Kathleen A. McGinty (CN=Kathleen A. McGinty/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN

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

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

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

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

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

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

READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TEXT:

Please review the House L/HHS/Ed letter. Markup is tomorrow, Tuesday, at 1pm; therefore, we need your comments by 10am. Thank you.

The Honorable Bob Livingston
Chairman
Committee on Appropriations
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

The purpose of this letter is to provide the Administration's views on the Labor, Health and Human Services, Education, and Related Agencies Appropriations Bill, FY 1999, as reported by the House Subcommittee. As the Committee develops its version of the bill, your consideration of the Administration's views would be appreciated.

[On June 23, 1998, the President stated that he was deeply disappointed with the Subcommittee bill. Due to the very serious funding and language issues present in the Subcommittee bill, discussed below, the President would veto the bill in its current form.]

The only way to achieve the appropriate investment level is to offset discretionary spending by using savings in other areas. The President's FY 1999 Budget proposes levels of discretionary spending for FY 1999 that conform to the Bipartisan Budget Agreement by making savings through user fees and certain mandatory programs to help finance this spending. In the recently enacted Transportation Equity Act, Congress -- on a broad, bipartisan basis -- took similar action in approving funding for surface transportation programs paid for with mandatory offsets. We want to work with the Congress on mutually-agreeable mandatory and other offsets that could be used to increase funding for high-priority discretionary programs, including those funded by this bill. In addition, we hope that the Committee will reduce funding for lower priority discretionary programs, and redirect funding to programs of higher priority.

Department of Education

The Subcommittee bill cuts \$2 billion from the President's overall request for education program funding. As a result, the bill does not adequately support the Nation's efforts to raise student achievement, make schools safe, and improve the capabilities of teachers. High priority programs inadequately funded and objectionable language issues include:

Goals 2000. Funding for Goals 2000 is cut \$255 million below the President's request, which would reverse momentum in all 50 States to raise academic standards and deny 6,000 schools serving over three million students the funds needed to implement innovative education reforms.

Title I (Education for the Disadvantaged) Grants to Local Educational Agencies. The Subcommittee bill cuts \$392 million from the request, which would leave nearly 520,000 students in high-poverty communities without the extra help they need to master the basics and develop the capability to reach high academic standards.

Eisenhower Professional Development. The Subcommittee's \$50 million reduction would leave over 100,000 teachers without the training they need to help them teach to rigorous academic standards.

America Reads. America Reads is denied the \$210 million provided in last year's Bipartisan Budget Agreement for children's literacy, which would prevent thousands of young children from receiving the extra help they need to learn to read well and independently by the end of the third grade.

Safe and Drug-Free Schools and Communities. The Subcommittee's \$50 million reduction would deny funding for School Coordinators in nearly one-half of the Nation's middle schools needed to implement effective drug and violence prevention programs.

After School programs (21st Century Community Learning Centers). A \$140 million cut to this program, part of the President's child care initiative, would result in 3,000 fewer centers and no services to nearly 400,000 children.

Education Opportunity Zones. The Subcommittee bill does not provide the requested \$200 million, which would deny high-poverty urban and rural districts the extra assistance they need to implement effective reforms with tough accountability for performance.

Technology in Education. The Subcommittee's \$137 million reduction from the request would make it increasingly difficult for States to meet school children's education technology needs, especially in training teachers to integrate educational technology into their curriculum effectively.

School-to-Work. School-to-Work is cut by a total of \$100 million (between the Departments of Education and Labor) below the President's \$250 million request, which would seriously hamper all States' efforts to help young people of all backgrounds move from high school to careers or postsecondary training and education.

Work-Study. Roughly 57,000 needy students would be denied the opportunity to work to finance their college education because of the Subcommittee's \$50 million reduction.

Higher Education Initiatives. No funds are provided for three Presidential initiatives for which the President sought \$237 million: High Hopes, to help prepare students at high poverty middle schools for college; Learning Anytime Anywhere Partnership grants for pilot projects using distance learning technology; and teacher recruitment and preparation programs. In addition to inadequate funding for priority education programs, the Administration is concerned with several language provisions of the Subcommittee bill, that would severely restrict the Administration's ability to continue the development of programs designed to raise academic standards.

National Tests. The Administration strongly objects to the language limitation and \$15 million funding cut that would bring a halt to the President's efforts to help States and parents raise academic standards through a voluntary national test. The Subcommittee bill's language would prohibit the development, implementation, and administration of the tests unless explicitly authorized. The language prohibition should be deleted and the funding restored.

Unfocused Block Grants. The Administration strongly objects to language that would, in effect, turn the Goals 2000 and the Eisenhower Professional Development programs into block grants by allowing those funds to be used under the broad Title VI block grant authority. Title VI has no performance or accountability standards. The language should be deleted

so that these Federal funds can address national needs and continue to be guided by strong accountability measures.

Special Education (Individuals with Disabilities Education Act -- IDEA). The bill contains two objectionable IDEA riders. One would undermine the due process protections and parental rights for disabled students who are regarded as violent. The other would, in effect, allow States to discontinue special education services for youth ages 18-21 in adult prisons, violating the right of all disabled, incarcerated students in that age group to receive special education services and prohibiting the Department of Education from using its enforcement mechanisms. Both provisions would unnecessarily re-open IDEA before last year's bipartisan reauthorization has had a chance to be implemented and fairly assessed. Both provisions should be stricken.

Bilingual Education. While we agree with the Committee on the need for more reforms to Bilingual Education, we are opposed to any provision that would set an absolute limit on student participation in bilingual education or alternative programs. Such a step would deny help to students who need it and violate the civil rights of Limited English Proficient students to an equal education. Because of individual differences, students will vary in how long it takes to develop English proficiency. We are also opposed to provisions that would establish a two year goal for becoming proficient in English, since research has shown that this timetable is unrealistically short. There are several promising provisions in this proposed bill, such as the removal of the 25 percent cap to allow more local flexibility and the funding priority for only successful programs.

Department of Labor

Summer Jobs Program. The Administration strongly opposes the Subcommittee's elimination of the \$871 million Summer Jobs program, which could finance 530,000 summer jobs for economically disadvantaged youth. The unemployment rate for teens continues to far exceed the overall unemployment rate. The Summer Jobs program plays a vital role in supporting employment among these teens, especially among African-American youths -- approximately 25 percent of summer jobs held by African-American 14-15 year olds come through this program -- and serves as a valuable introduction to the world of work. We urge the Committee to restore the full request for this program.

President's Youth Opportunity Area Initiative. The Subcommittee provides no funding for the President's Youth Opportunity Area initiative and rescinds the \$250 million appropriated last year for this program. This program would address the problem of pervasive joblessness in high-poverty neighborhoods by making large investments in these areas to effect community-wide change and help 50,000 out-of-school youth. We strongly oppose elimination of this program, which is an essential component of the Administration's Empowerment Zones/Enterprise Communities initiative. We urge the Committee to provide full funding as requested.

The Administration has strong concerns with the inadequate funding

levels provided for the following Labor programs:

Adult Job Training. The Subcommittee has provided none of the requested increases for the Dislocated Worker (\$100 million) and low-income adult (\$45 million) job training programs. Freezing these programs would mean that some 67,000 fewer workers in need of assistance would be helped.

Worker Protection. The Subcommittee has cut nearly in half the requested increase for programs that protect our workers on the job. For example, the Subcommittee mark for Occupational Safety and Health Administration redirects resources to State consultation and is, effectively, 12-percent below the requested level for Federal enforcement, while funding for the Mine Safety and Health Administration is frozen at the 1998 level. We urge the Committee to restore financing for such critical workplace protection programs.

Unemployment Insurance. The House Subcommittee mark does not fund the \$90 million requested for the Unemployment Insurance (UI) integrity initiative. This initiative was authorized in the Balanced Budget Act of 1997 and would, over five years, achieve \$763 million in mandatory savings assumed in the Bipartisan Budget Agreement. Failure to fund this initiative would mean a continuation of errors in benefit payments and UI taxes.

Child Labor. The \$3 million increase to combat international child labor abuses is inadequate in light of the magnitude of the problem, and provides only a small fraction of the \$27 million requested.

The Subcommittee bill contains several objectionable language riders addressing regulatory issues in the Department of Labor. These include language imposing new, unnecessary, and burdensome review procedures before the Department can issue Black Lung regulations, a new requirement for OSHA to conduct duplicative peer review panels for its new regulations, and a continuation of the rider that prohibits MSHA from enforcing training requirements at certain mines, which have a growing numbers of deaths. These riders would make it more difficult for the Department of Labor to carry out its programs and should be dropped.

The Administration objects to the continuation of last year'