

NLWJC - KAGAN

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[07/24/1998 - 07/27/1998]

Withdrawal/Redaction Sheet

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Christopher Edley to Leslie Bernstein et al re Invitation (2 pages)	07/27/1998	Personal Misfile

COLLECTION:

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

FOLDER TITLE:

[07/24/1998-07/27/1998]

2009-1006-F

kc176

RESTRICTION CODES

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

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

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

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

RR. Document will be reviewed upon request.

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

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:24-JUL-1998 09:47:28.00

SUBJECT: H2A vote in the Senate

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

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

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

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

TEXT:

FYI. Yesterday, the Senate voted 68 to 31 in favor of the Smith/Wyden H2A amendment. However, two secondary amendments were included: (1) a Feinstein amendment that permits the Secretary of Labor to limit the number of H2A visas issued; and (2) a Kennedy amendment that provides that the President, in implementing this title, shall not implement any provision that he deems to be in violation of any of the following principles (then attached the DOL list of principles). Also, the provision for a user fee was struck (this fee was to go into a fund to pay for the registry).

Also, Feinstein's office called the DOL late yesterday. They stated that Bob Graham wants to work on compromise legislation and asked to meet with DOL and the CA growers to try to work something out. Labor asked why a farmworker advocate was not also included in the mix. Feinstein's staff stated that she thought that the DOL was that advocate. DOL explained that the farmworkers don't see it that way, and that it would be best to have someone from that side also at the table.

julie

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:24-JUL-1998 10:26:50.00

SUBJECT: So far looks good for fed govt to accept private \$\$ for counteradvertising

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

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

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

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

TEXT:

Per your voice mail, Bruce, I'm checking into whether the federal government could accept funds for counteradvertising from a state settlement. Harriet Rabb is having discussions with the right lawyers, but she understands that the Public Health Service, of which CDC is a part, has "gift authority" i.e., can accept and use gifts. She'll get back to me with a more definitive answer later today.

I think we should add funds for document dissemination to the list as well. Also, don't forget to have the AGs push for the industry to hand over their index to the documents (the 4-A index).

For the record, O'Hara raised the question of whether we would want the President in the position of accepting a check from the AGs that they had gotten from the tobacco industry... i.e., this was something he couldn't get on his own, that he had to rely on the AGs for.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:24-JUL-1998 11:26:05.00

SUBJECT: from fred duval

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

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

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

TEXT:

----- Forwarded by Diana Fortuna/OPD/EOP on 07/24/98
11:13 AM -----

Fred Duval 07/24/98 10:54:03 AM

Record Type: Record

To: Diana Fortuna/OPD/EOP

cc:

Subject: Re: what are you hearing...

They have cut me some slack and will not do policy, BUT instead, will likely express their frustration orally at next Tuesdays press conf on welfare.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:24-JUL-1998 11:26:38.00

SUBJECT: NYT food safety editorial today

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

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

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

TEXT:

Dorothy Samuels wrote this. Any guidance you can give Larry S. or Jack L. that this is an admisnitration priority will help in conference.

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July 24, 1998, Friday, Late Edition - Final

SECTION: Section A; Page 20; Column 1; Editorial Desk

LENGTH: 378 words

HEADLINE: A Food Fight Worth Waging

BODY:

President Clinton has asked Congress to provide \$101 million to bolster Government efforts to insure the safety of the nation's food supply. The funds would be used to deploy more food safety inspectors and new technology, expand research into the causes of and solutions to food-related illness, and educate consumers and retail food outlets on the safest food handling practices.

There is growing public concern about the large number of food-caused illnesses, including some from unexpected sources like the salmonella in cereal that sickened 200 people in 11 states last month. Indeed, Mr. Clinton's initiative could well be stronger. But he is having a hard time getting the

Republicans who control the House and Senate to furnish even the modest sum he has requested.

The House has allocated just \$16.8 million for the program, far short of the amount required to make serious headway against the hazards associated with bacteria, viruses and parasites in food. The Senate's original response was even more grudging. The Agriculture spending bill that hit the Senate floor last week

set aside a measly \$2.6 million. But it finally dawned on lawmakers that this could be a tough position to defend to voters. Senator Tom Harkin, Democrat of Iowa, then won approval for an amendment to increase the appropriated amount to \$68 million. That is progress, but well short of what is required. Surely food safety is at least as important as some of the pork-barrel projects buried in the transportation bill.

The issue now moves to a House-Senate conference committee. Some lawmakers have argued that money for new programs is tight this year, and that some of the Food and Drug Administration's responsibilities could be delegated to state and local governments. But health officials estimate that food-borne diseases account for up to 30 million cases of illnesses and 9,000 deaths a year. Imported foods, which are only rarely inspected now, increasingly contribute to the problem. This is hardly a time to be diminishing the Federal Government's role. Congress should find the money to finance the White House food safety initiative, and then promptly attend to the Administration's proposals to strengthen the policing authority of food agencies.

LANGUAGE: ENGLISH

LOAD-DATE: July 24, 1998

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:24-JUL-1998 11:29:02.00

SUBJECT: C/J/S APPROPS HOUSE FLOOR SAP

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

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

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

TO: RUDMAN_M@A1@CD@VAXGTWY (RUDMAN_M@A1@CD@VAXGTWY [UNKNOWN]) (NSC)
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: Rosemary Evans (CN=Rosemary Evans/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])
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CC: Jessica L. Gibson (CN=Jessica L. Gibson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

CC: FARRAR_J@A1@CD@VAXGTWY (FARRAR_J@A1@CD@VAXGTWY [UNKNOWN]) (NSC)
READ:UNKNOWN

CC: Victoria A. Wachino (CN=Victoria A. Wachino/OU=OMB/O=EOP@EOP [OMB])
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CC: Robert L. Nabors (CN=Robert L. Nabors/OU=OMB/O=EOP@EOP [OMB])
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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 House Floor SAP for the C/J/S Appropriations bill. The new language on amendments is in bold text -- all of the other language is identical to the House Rules SAP that was sent on 7/22/98. Please review the added language and provide comments/clearance by 4pm today. We aim to release the Floor SAP to the Hill by c.o.b. today. Many thanks.

H.R. 4276 -- COMMERCE, JUSTICE, STATE, THE JUDICIARY,
AND RELATED AGENCIES APPROPRIATIONS BILL, FY 1999
(Sponsors: Livingston (R), Louisiana; Rogers (R), Kentucky)

This Statement of Administration Policy provides the Administration's views on H.R. 4276, the Commerce, Justice, and State, the Judiciary, and Related Agencies Appropriations Bill, FY 1999, as reported by the House Appropriations Committee. Your consideration of the Administration's views would be appreciated.

The Administration appreciates the Committee's support for many of the President's priorities within the 302(b) allocation. For example, we appreciate the Committee's funding of law enforcement programs in general and the COPS program in particular. Funding COPS at the requested level of \$1.4 billion is consistent with the Balanced Budget Agreement and would enable us to achieve the goal of hiring 100,000 additional police officers by the year 2000.

However, the allocation is simply insufficient to make the necessary investments in other critical programs funded by this bill. 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 in mandatory and other programs available to help finance this spending. In the 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 would be used to increase high-priority discretionary programs, including those funded by this bill. In addition, we hope that the House will reduce funding for lower priority and unrequested discretionary programs, and redirect funding to programs of higher priority.

The Administration has very serious concerns, discussed below, with the Committee's inadequate funding of a number of priority programs, as well as with objectionable language provisions. If the bill were presented to the President in its current form, the President's senior advisers would recommend that the President veto the bill.

Legal Services Corporation

The Committee bill funds the Legal Services Corporation (LSC) at \$141 million, \$142 million below the FY 1998 enacted level and \$199 million below the President's request of \$340 million. This funding level is unacceptable. It represents a 65-percent cut from the FY 1995 level of \$400 million, would severely cripple the program, and calls into question the Federal Government's commitment to ensuring that all Americans, regardless of income, have access to the Judicial system. The Supreme Court recently ruled that interest on lawyer trust accounts (IOLTAs) are the private property of clients and cannot be used to generate resources for civil legal services. This eliminates a funding source that provided LSC programs with more than \$57 million last year and underscores the importance of action to fully fund the President's request. The Administration strongly supports efforts to increase funding for the LSC.

Small Business Administration

The Administration strongly objects to the Committee's funding levels for the administration of the Small Business Administration's (SBA's) programs. The Committee's funding level for the Salaries and Expenses account regular operating expenses represents a 27- percent reduction from the President's request, and includes a requirement that all of the reduction be taken from headquarters functions. Such funding levels would require reductions in staff by more than 1,200 staff years through severe reductions-in-force. Not even the elimination of all headquarters employees would satisfy the Committee report requirement to take reductions solely from non-District Offices

Equal Employment Opportunity Commission

The Administration strongly urges the House to fully fund the President's request of \$279 million for the Equal Employment Opportunity Commission (EEOC), \$18.5 million above the Committee mark. The additional resources are essential and would allow EEOC to reduce the backlog of pending complaints and implement much-needed reforms in the way all complaints are managed, including an enhanced alternative dispute resolution program. We look forward to working with Congress to provide funding for EEOC and other programs included in the President's civil rights enforcement initiative.

Department of Commerce

Decennial Census. The language in the Committee bill is unacceptable. It is critical that the Congress provide full-year funding for the Decennial Census without any restrictions on the use of statistical sampling. Delays or disruptions would unacceptably complicate the management of this massive operation. We urge the House to pass an amendment that removes these onerous language restrictions and provides funding that will allow the Census Bureau to implement its current plan. This plan was developed by statistical experts and based on recommendations from the National Academy of Sciences, which found that regardless of cost, the methods of the past could not achieve satisfactory accuracy. The statistical methods incorporated in the Bureau's plan would produce the most accurate census possible and virtually eliminate the large undercounts of minorities, children and other groups that occurred in the 1990 census.

National Oceanic and Atmospheric Administration. The Administration objects to inadequate funding for Administration priorities within the National Oceanic and Atmospheric Administration (NOAA), including: the

Clean Water Initiative to protect coastal communities; the GLOBE program, which promotes scientific discovery and student achievement; and, activities to implement the Endangered Species Act and Magnuson-Stevens Act. Reductions to the Climate and Global Change Program would slow research to understand the implications of extreme weather events such as El Nino. In addition, by not fully funding the request for the National Weather Service, the Committee threatens vital services. The Administration strongly opposes amendment language that extends state jurisdiction of fisheries from 3 miles to "3 marine leagues" for Alabama, Louisiana, and Mississippi. The extension of States' jurisdiction over marine resources beyond the currently drawn boundaries would undermine the current management regime and could have severe and detrimental effects on living marine resources in the Gulf. Finally, the Administration is concerned with funding restrictions in bill language that could limit NOAA's ability to fulfill its mission.

The Administration is also particularly concerned about inadequate funding to fulfill contract obligations for the geostationary weather satellite program. Renegotiation or termination of these contracts would jeopardize satellite continuity and increase costs. The recent failure of the GOES-9 satellite underscores the need to maintain production schedules. The satellite allowance would necessitate a restructuring of the converged satellite program -- a complex and carefully negotiated multi-agency system.

National Institute for Standards and Technology. The Administration is concerned that the Committee's exclusion of the requested advance appropriation for the Advanced Measurement Laboratory would increase costs and delay completion by at least a year. We are also very disappointed by the lack of support for the Advanced Technology Program, which fosters cutting-edge research. The Committee allowance would support only \$43 million in new awards, 54 percent below the President's request of \$94 million for new awards.

Statistics Initiatives. The Administration is concerned about inadequate funding for high-priority statistical initiatives, especially the improvement of National Account measures, the Poverty Measure initiative, and the Continuous Measurement program, which will provide annual demographic information on the population and eliminate the need for the long form in the 2010 Census.

Minority Business Development Agency. Management reforms at the Minority Business Development Agency (MBDA) have improved delivery of programs and technical assistance, and MBDA has emerged as a stronger, more focused agency. The Administration objects to the reduction to MBDA's base and requests restoration of \$2.8 million.

National Information Infrastructure Program and Other Issues. In the Committee bill, the National Information Infrastructure program is reduced by \$4 million (20 percent) below the FY 1998 enacted level. Such a reduction would substantially decrease seed money for innovative information technology projects. In addition, the Administration strongly objects to onerous reporting requirements that would require the Department to notify Congress before exporting satellites to China.

Year 2000 Computer Conversion

In the FY 1999 Budget, the President has requested more than \$1 billion for Y2K computer conversion. In addition, the budget anticipated

that additional requirements would emerge over the course of the year and included an allowance for emergencies and other unanticipated needs. It is essential to make Y2K funding available quickly and flexibly. The House effort to defer action on the emergency fund in the Treasury and General Government Appropriations bill is very troubling, particularly in light of several Subcommittees, including the Commerce, Justice, State Subcommittee, deciding to not fund the base Y2K requests.

Department of Justice

The Administration appreciates the Committee's continued support for law enforcement and other Department of Justice activities. However, as discussed below, we are concerned about Committee action in a number of areas.

Title V -- At-Risk Children's Grant Program. The Administration urges the House to provide \$95 million requested for the At-Risk children's proposal. The At-Risk proposal supports local community prevention programs such as mentoring, truancy prevention, and gang intervention to prevent young people from becoming involved in the criminal justice system.

Drug Testing and Intervention. We are disappointed by the Committee's failure to provide any of the \$85 million requested for the drug testing and intervention program. Systematic drug testing is a proven, cost-effective means of using the coercive power of the criminal justice system to move non-violent offenders into drug treatment programs.

Imposition of State Ethics Rules. The Administration strongly opposes the provisions in the bill that would impose State ethics rules on Federal attorneys and establish an independent board that could fire Federal agents, prosecutors, and civil law enforcement attorneys. These provisions would undermine Federal law enforcement by subjecting Department of Justice attorneys to multiple and inconsistent State rules of conduct, transferring to the States the authority to regulate the conduct of Federal attorneys in the performance of their Federal law enforcement duties.

Protection Against Terrorism, Including Use of Chemical and Biological Weapons. We appreciate the Committee's support of the Administration's effort to combat terrorism, particularly the use of chemical and biological weapons. However, we ask that the Committee fully fund the request for the Attorney General's Counterterrorism Fund, including funding for local bomb squad equipment.

Protection Against Cybercrime and Attacks on Our Nation's Critical Infrastructures. The Committee mark excludes Counterterrorism Fund support to combat cybercrime, including funding for potential transfer to other agencies and for the FBI's National Infrastructure Protection Center. The Department of Commerce has identified funding requirements for the interagency Critical Infrastructure Assurance Office, which coordinates the development and integration of a national critical infrastructure plan. Failure to provide funding would endanger the Government's efforts to fight cybercrime.

Indian Country. We appreciate the Committee mark for Indian Country. However, we urge the House to fully fund the Administration's request for Indian Country criminal justice assistance, including FBI and U.S. Attorneys resources.

Federal Bureau of Investigation. The Administration is disappointed that the Committee's level for the Federal Bureau of Investigation (FBI) is \$52 million below the President's request. We are particularly concerned about the proposed \$30 million funding level for the FBI's Information Sharing Initiative (ISI), which is \$20 million below the request, and would prevent the FBI from improving its electronic case file information and thereby increasing the effectiveness and efficiency of the FBI's investigations. Furthermore, the reporting requirement on ISI would impede the FBI's ongoing efforts to provide critical information technology infrastructure support using existing resources.

Immigration and Naturalization Service. We appreciate the Committee's support for the Administration's border control initiative. However, the Committee's \$2.567 billion mark, \$156 million below the President's request, is insufficient to support a comprehensive, bipartisan border management and enforcement strategy. The President's request supports increased border management funding for Border Patrol agents, critical infrastructure and technology, detention support, interior enforcement, and includes \$36 million more than the Committee's level for Border Patrol, detention, and office construction. We urge the House to fully fund the President's request.

Bureau of Prisons/Abortion. The Administration urges the House to strike section 103 of the Committee bill, which would prohibit the Bureau of Prisons from funding abortions except in cases of rape or where the life of the mother is endangered. The Department of Justice believes that there is a great likelihood that this provision would be held unconstitutional.

Juvenile Justice Block Grant. The Administration is concerned that the \$250 million Juvenile Justice Block Grant in the Committee bill may authorize a broad and unfocused range of spending, and urges the House to provide funding for more targeted activities, including direct funds for local prosecutors to target juvenile and quality of life crimes.

Narrowband Communications. The Administration is disappointed that the Committee has not provided the \$86 million requested to establish a fund for the consolidation and coordination of the Department's conversion to narrowband communications systems. We urge the House to establish such a fund and to restore the \$24 million in base resources that are excluded from the Committee mark.

Potential Amendment Related to Presidential Executive Orders

The Administration would strongly oppose an amendment that may be offered prohibiting the use of funds in the Act for implementing Executive Order 13087, dated May 28, 1998. The purpose of Executive Order 13087 is to confirm and make uniform the existing bar preventing the federal government from discriminating against members of the federal civilian workforce based on sexual orientation. [It is intended that the term "sexual orientation" have the common meaning stated in the Employment Non-Discrimination Act, "homosexuality, bisexuality, or heterosexuality." OMB suggests deletion of sent. -- need WW decision.] Executive Order 13087 does not authorize affirmative action policies, such as recruitment, reporting, or goal-setting based on sexual orientation. Nor does it create any rights to file a complaint alleging discrimination on the basis of sexual orientation with a court or with the EEOC. The order leaves intact the current procedures for dealing with such

complaints. The Administration objects to any effort to scale back policies that ensure federal workers are treated fairly. In particular, we object to any amendment that would allow discrimination based on sexual orientation.

The amendment would also prohibit the Federal government from implementing Executive Order 13083 on Federalism. The Administration strongly opposes this effort, which would block our efforts to ensure that existing policies are consistent with recent Supreme Court decisions and unfunded mandates statutes and would inhibit our ongoing efforts to take into account important State and local concerns in Federal actions. After hearing concerns from representatives of State and local governments, the Administration last week announced it would delay implementation of the Executive Order for an additional 90 days in order to consult thoroughly with those groups about the content of the Order, and to make changes where appropriate

International Affairs Programs

The Administration appreciates the Committee's support for the Department of State's Diplomatic and Consular Programs and Salaries and Expenses accounts. However, we are concerned about the Committee's reduction of \$26 million for the Department's operating requirements. Further, the Committee's reduction of \$38 million to the request for information technology improvements in the Capital Investment Fund would jeopardize the Department's effort to achieve Y2K compliance. In addition, limits placed on the amount of fees to execute the President's Border Security Program that can be used in FY 1999 could slow urgently needed border security improvements.

The Administration is very concerned about the Committee's \$245 million reduction to the request for Security and Maintenance of U.S. Missions. The Committee's mark does not fund construction of needed Embassy projects in Beijing and Berlin and would require offsets against regular security and maintenance activities to fund initial design work for these important projects. We request that the Committee provide a funding level consistent with the President's budget for urgently needed embassy facilities and ongoing security and maintenance programs, including Y2K-related activities.

The Administration appreciates the steps the Committee has taken to fund the request for arrearage payments this year. The Administration wants to work with the Congress to ensure that these funds are available in a timely fashion to retain our influence in these organizations and to identify reform measures that further U.S. interests. However, we strongly oppose the bill's authorization requirement that is intended to subject this important foreign policy measure to the unrelated issue of family planning policy. There is legitimate disagreement over this issue, but none of the U.N. and related international organizations arrears payments is related to this issue. Therefore, it is wholly inappropriate to hold the payment of U.S. arrears hostage to the family planning issue.

Further, although the Committee has provided significant funding for the Contributions to International Organizations (CIO) and Contributions for International Peacekeeping Activities for FY 1999, the Administration is concerned that reductions in these accounts would increase arrears and impair the ability of the United States to address foreign policy interests through the mechanism of U.N. peacekeeping.

The Administration opposes the Committee's proposal to provide up

to \$15 million for Comprehensive Nuclear Test Ban Treaty needs by transfer from the CIO account without any increase in funding. We strongly believe that these important activities should be funded at the \$29 million level, as requested in the Nonproliferation, Anti-terrorism, Demining and Related Programs account.

The Administration is concerned about the \$21 million overall reduction to the request for the U.S. Information Agency (USIA). Given that the USIA request is virtually at the FY 1998 level, the Committee's reduction would hurt core public diplomacy activities, Year 2000 compliance, critical broadcasting activities including broadcasting to Africa, and important grant programs. We urge the House to provide funding for USIA's operating and special accounts at the requested level.

Finally, the Administration is concerned about the Committee's reductions for the Arms Control and Disarmament Agency, the Asia Foundation, the American Institute in Taiwan, and the International Commissions. Such reductions would place a disproportionate burden on the operating budgets of these small agencies.

Federal Communications Commission

The Administration is very concerned about the lack of funding for any of the requested increases for the Federal Communications Commission (FCC). The Committee's funding level could require an agency-wide furlough or reduction-in-force, impairing the FCC's ability to implement the mandates of the Telecommunications Act of 1996 and to carry out critical mission operations.

Teamsters Election

The Administration objects to the continuation of last year's rider that prohibits the use of funds for supervising the Teamster's election, despite a court order requiring the Federal Government to pay for a supervised election.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:24-JUL-1998 13:53:37.00

SUBJECT:

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

READ:UNKNOWN

TEXT:

FYI- Bruce, Gene, & Chris are having an improptu pre-mtg. right now if you want to come over in Gene's office

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:24-JUL-1998 14:06:01.00

SUBJECT:

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

TEXT:

Sylvia needs to talk to you re: INS ASAP 54742- she'll be at the 2:00 mtg.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jerold R. Mande (CN=Jerold R. Mande/OU=OSTP/O=EOP [OSTP])

CREATION DATE/TIME:24-JUL-1998 15:14:37.00

SUBJECT: Draft cloning ltr.

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Here is a draft Potus letter to Congress on cloning. I have included comments from Rachel Levinson in OSTP, and I sent copy to David Beier for his comments, which I will pass on when I receive them. The House is scheduled to take up the Labor, HHS approps bill on Wed.

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D62]MAIL42627601I.226 to ASCII,
The following is a HEX DUMP:

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D31A3475E45B9EA08F16F5FF903CA42180E22BA650E49D0A40F075F42B58518DDEC79A640CF9C
ED86C36F271A62E83CFDE3E5BA4B835BB91B288985B2FE214844D55CB40062C9CBB4C9D354C61E

I am writing to ask you to work with me to enact into law this year restrictions that will prevent the cloning of a human being, without disrupting biomedical research. On June 9, 1997, I sent legislation to the Congress that would achieve these goals. My bill was carefully and narrowly crafted to prevent the cloning of a human being, but not interfere with important biomedical research that could lead to meaningful advances in treating illnesses such as cancer and diabetes. Reports this week of the cloning of more than 50 mice adds to the urgency of our task.

As you know, scientists, the public, and policymakers alike were stunned last year by reports that a scientist had cloned an adult sheep. Most experts had previously believed that it was not possible to reprogram the genes of an adult specialized cell. But as has happened so often, human ingenuity pierced old assumptions and provided a new understanding of what is possible. This technology holds great promise. Many scientists and doctors now believe cloning technology can be used to produce cell lines that could result in breakthrough treatments for many dreaded illnesses such as replacing a failing organ without the need for a donor or the risk of tissue rejection.

But the new technology also poses difficult moral questions. Scientific advancement should not occur in a moral vacuum. Technological developments divorced from values will not bring us one step closer to meeting the challenges of the next millennium. Virtually everyone agrees that the use of new cloning techniques to create a human being is untested, unsafe, and morally unacceptable.

This week's reports on the advances in cloning technology make it important that we set aside politics and send a clear message that cloning a child is not an acceptable endeavor. I am concerned that efforts to address other moral questions, such as when does human life begin, in cloning legislation are endangering our chances of passing a bill this year. We have the opportunity to pass cloning legislation in the next two months. But we will only succeed if we stay focused on prohibiting the cloning of human beings, and not try to resolve other moral conundrums.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:24-JUL-1998 15:54:51.00

SUBJECT: Title IX and Abortion

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

CC: Ora Theard (CN=Ora Theard/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

TEXT:

I am sending you a memo discussing Title IX and abortions in advance of our meeting on Tuesday, 7/28, at 10:00, in Chuck's office. Someone from DOJ and ED will be coming as well.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:24-JUL-1998 15:57:43.00

SUBJECT: POTUS memo from Jack Lew

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Elena,

OMB would like to get this to Jack Lew by 4:15pm.

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D3]MAIL43579601C.226 to ASCII,

The following is a HEX DUMP:

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E6D8A72A598AC608CE6FE1E13EEA4EC89038C16934EA293959944BE67A6C926A41B25D2917DF1E

MEMORANDUM TO THE PRESIDENT

FROM: Jacob J. Lew

SUBJECT: Naturalization Backlog -- Congressman Becerra

Purpose: Congressman Xavier Becerra (D-CA), who will be on your flight back from New Mexico, may speak to you regarding the backlog of naturalization applications at the Immigration and Naturalization Service (INS) and the Administration's proposed increase in the naturalization application fee. Immigrant advocates are upset that INS continues to provide poor service and that the naturalization backlog continues to grow -- yet applicants will have to pay more under the new INS fee schedule. Congressman Becerra agreed to call off planned protests on this issue by immigration advocates that were to occur at the Social Security Conference and has indicated a willingness to work with us to develop a plan to address this problem.

Background: Many immigration advocates have expressed serious concerns over the naturalization backlog and INS' proposed immigration service fee increases -- primarily naturalization. The dramatic increase in naturalization applications (from 540,000 in FY 1994 to almost 1.6 million in FY 1997), along with the dedication of substantial resources over the past nine months to implement quality assurance, has resulted in an increase in the number of pending applications. As of the end of May 1998, nearly 1.9 million were pending. Currently, most applicants are experiencing a wait of 18-24 months.

The naturalization program is funded through application fees. The immigrant advocates have been asking for a one-time allocation of funds (either through a budget amendment or reprogramming) to assist with backlog reduction efforts. At the same time, the Administration is planning to issue a regulation (with an October 1, 1998, effective date) that would increase fees for the provision of immigrant services, including naturalization (from \$95 to \$225). This fee increase would more accurately reflect the actual cost of processing an immigrant service application for benefits.

Your FY 1999 budget projects a reduction in average waiting time for a naturalization applicant from the current 18 to 24 months to 10 to 12 months by the end of FY 1999. This change was expected to result primarily from a Department of Justice sponsored re-engineering of the naturalization process. These projections were based on INS' estimates of an average of 1.6 million new applications in FY 99, enhanced productivity, and other factors. The INS now estimates that it will receive a total of 850,000 naturalization applications in FY 1998 and 700,000 in FY 1999 -- 46% fewer than prior estimates. This reduction in application levels translates into an estimated \$99 million revenue loss in FY 1998 and a \$302 million revenue loss

in FY 1999. This significant change in expected revenue has required the INS to reevaluate and prioritize base program funding and planned enhancements for backlog reduction and process re-engineering.

The Domestic Policy Council and OMB staff have been working with INS to develop a plan to achieve progress in reducing the backlog using current revenue projections, including the anticipated increase in the naturalization fee. The plan provides for both management and process improvements to tackle the backlog and improve customer service. This plan, to be implemented by October 1, 1998, would: (1) implement organizational improvements such as merging the existing office of naturalization into INS' management structure to increase accountability by district directors; (2) implement selected Coopers & Lybrand process recommendations (such as improving customer service and moving the English and civics testing to the beginning of the naturalization process); and (3) provide for backlog reduction "SWAT" teams (to focus backlog reduction efforts in the five cities -- including Los Angeles -- that handle 65% of the naturalization workload). OMB has also evaluated the INS' current budget projections and will work with INS to identify ways to generate more revenue (through reallocation or reprioritization of resources) for the naturalization effort.

Attachment

Naturalization Backlog Reduction Talking Points
for a Potential Conversation with Congressman Becerra

- We agree that the growing backlog is unacceptable. The Administration is committed to both management reforms and providing the resources necessary to reduce waiting times. In the past year, the INS has implemented several reforms to the naturalization process that are designed to expedite processing, while maintaining integrity. However, we recognize that there are enormous challenges ahead and we are committed to addressing those challenges expeditiously.
- Our FY 1999 budget anticipates significantly reducing the waiting time for naturalization applicants. However, the INS has recently determined that it expects a 46% reduction in naturalization applications in FY 1999. Such a reduction changes both revenues and the rate at which the pending caseload increases. OMB and the Domestic Policy Council have worked with INS to reassess INS' backlog reduction strategy in light of these new projections. Our goal is to have these management and process reforms in place by October 1, 1998.
- We recognize that in some cases the anticipated increase in the application fee will create a hardship. We will make sure that any proposal to increase the fee is accompanied by a waiver for those for whom the burden is too much. However, given the budget realities, an increase in the fee is the best way to reduce the backlog.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:24-JUL-1998 16:26:28.00

SUBJECT: Most Final Weekly Report- use this one

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

READ:UNKNOWN

TEXT:

includes a new child care piece from Nicole===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D2]MAIL41730701G.226 to ASCII,
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July 24, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

RE: DPC Weekly Report

Tobacco -- Court Decision on Second Hand Smoke: This week, a Federal district court judge in North Carolina granted the tobacco industry's motion for summary judgment in a case challenging the EPA's 1993 risk assessment report declaring environmental tobacco smoke a Class A carcinogen which causes lung cancer. Specifically, the court found that the EPA failed to follow proper procedure requiring industry representation on an advisory committee responsible for providing advice to the EPA regarding the risk assessment, and held that since industry participation could have influenced the scientific findings in the report, this did not constitute harmless error. Notably, the industry did not challenge the EPA's findings regarding the harmful respiratory effects of children's exposure to ETS. In addition, numerous studies since 1993 have confirmed the EPA's findings that ETS is harmful to both adults and children. There is concern, however, that the industry will attempt to use this victory to challenge state and local anti-smoking ordinances. The EPA is currently consulting with DOJ regarding a possible appeal of this decision. We hope to schedule a September event for you to announce that the EPA will appeal, and to unveil a new EPA public service announcement which targets ETS in the home by informing parents of ways to protect their children from second hand smoke i.e., by smoking outdoors (smoking by parents in the home is a major source children's exposure to second hand smoke, which can cause sudden infant death syndrome, asthma, ear infections, bronchitis and pneumonia).

Health Care -- Provider Taxes: After your line-item veto of New York's provider taxes last Fall, we notified all states of our desire to work with them to ensure that they no longer used impermissible provider taxes to help fund the state portion of their Medicaid programs. At that time, we advised states of our intention to support legislation that gives the Secretary the authority to waive the collection of any funds owed because of impermissible provider taxes if they are brought into compliance. However, we also informed states that if Congress did not grant us that authority by August of this year, we would be forced to start disallowance process. As August approaches, it is becoming clear that Congress has no intention of passing this legislation. States that have potentially impermissible provider taxes have not worked to pass this legislation because they believe, based on previous experience, that we have no intention of enforcing this law. Members from states who are not relying on impermissible taxes do not have any desire to pass legislation that would forgive states for having illegal financing schemes. We met on

Thursday to discuss whether we should start our enforcement activities, and if so when. The meeting concluded with a recommendation to delay action until after the Congress adjourns. This will help to ensure that Congress and the states cannot criticize us because they were not given sufficient time to pass the necessary legislation. However, we are checking with the counsel's office at Justice and HHS to determine if we can delay implementation without raising legal concerns about the Federal government's lack of enforcement of current law.

Education -- NEA/AFT International Teachers Congress Speech: On July 29 you will speak to the International Congress of Teachers, an international teachers organization tied to both NEA and ATF. Because national education standards are common place in most other industrialized countries, this forum provides a good opportunity to restate the case for national standards and tests, and to renew your threat to veto the appropriations bill if it blocks work on the test, and if it fails to support necessary education investments.

Welfare Reform -- Mayor Giuliani's New Plan: In a July 20th speech, Mayor Giuliani announced he would eliminate welfare by 2000, with everyone engaged in some kind of work. He promised to move New York from the welfare capital to the work capital. The Mayor harkened back to FDR's notion of a social contract and cited RFK's concerns about welfare rendering millions of Americans dependent on handouts and thus unable to play a role in the democracy. Apparently he added a positive reference to your support for welfare reform which was not in his written remarks.

Giuliani's new approach has lots of parallels to Wisconsin -- not too surprising, since he recently hired Jason Turner, Governor Thompson's former welfare reform guru. While not publicly backing away from the workfare program he has championed, the mayor is making workfare one part of a comprehensive work first, employment-focused approach which includes private sector unsubsidized and subsidized employment. For example, he cited that over 250,000 people have gained skills and work habits they need to join the work force through the workfare program, but he challenged every business to give someone an opportunity to move from welfare to work.

The Mayor proposed to transform every welfare office into an employment center, divert applicants to work if possible so that welfare is the last rather than first resort, require mothers with newborns to attend a parenting class, expect those with disabilities not severe enough to qualify for disability payments to work (in specialized settings if necessary), and compel those with substance abuse problems to participate in work and treatment.

The Mayor's new approach sets very high expectations for both recipients and the welfare system. The question will be whether something this ambitious can be accomplished in NYC given its size, bureaucracy, political dynamics, and continuing high unemployment. It will be difficult for the nearly universal work requirement to succeed unless the mayor ensures that

adequate supports, i.e., child care, work-focused drug treatment, appropriate work opportunities for those with disabilities, are in place. In New York, as elsewhere, we must work to ensure that individuals applying for welfare obtain Food Stamps and Medicaid as need be.

Welfare Reform -- NGA Report on Employment Retention and Career

Advancement: On July 28th the National Governors Association will release a report financed by HHS on how states can help people remain employed once they have left welfare. The report emphasizes that "work first" does not simply mean placing people in entry level jobs -- it is about working with people after they are employed to help them keep their jobs, avoid returning to welfare, and advance within the labor market. This requires focusing on providing work-based learning and skill development that meets employers' needs for skilled workers. The report generally suggests states should: promote learning at the workplace; help people get jobs that give them access to career ladders; improve the quality of "transitional employment" such as work experience by combining it with education, training, career guidance and job placement; and improve access to education and training that complements work. To help people retain employment, NGA encourages: ongoing case management and mentoring; access to supportive services such as child care, transportation, health care, housing; and financial incentives such as the federal and state earned income tax credits. The report highlights innovative approaches in a number of states and communities. We are working with HHS to put out a press release on Tuesday praising the report and highlighting a May NGA fiscal report showing state are investing more in child care and work.

Welfare Reform -- Washington State Report: A recent survey by the State of Washington shows relatively high levels of employment and earnings for people who left welfare between December 1997 and February 1998. Sixty-eight percent are currently working at an average hourly wages of \$8.42. Total family income for these families, including child support, was 137% of the federal poverty level. Though Washington has a generous child care program, only 31 percent of families reported using subsidized care. More than half responded that they didn't need subsidies because they received care for free. This may be because a substantial number of people reported working nights and weekends, when people are more likely to use relatives or friends. While most people reported they had health insurance, this remains an area of concern: respondents reported that 35 percent of adults and 20 percent of children had no health insurance. Washington will be updating this study on a regular basis.

Welfare Reform -- North Carolina Conference on Job Retention: Governor Hunt has invited several thousand businesses to participate in a 'Work First Retention Conference' on July 30th. The Welfare-to-Work Partnership is co-sponsoring the event and Eli Segal will participate. Aida Alvarez may also participate. Businesses will share successful strategies for reducing turnover through transportation, mentoring, supervisor training, and skills upgrading.

Disability Issues -- Event for ADA Anniversary and Disability Task Force: This coming Wednesday, you will commemorate the eighth anniversary of the Americans with Disabilities Act by signing a directive recommended by your Task Force on Employment of Adults with Disabilities. You created the Task Force by executive order in March, and it is co-chaired by Secretary Herman and Tony Coelho. Its mandate is to determine what the federal government can do to help bring the employment rate of adults with disabilities "as close as possible" to that of the general population. The directive will instruct DOJ, EEOC, and SBA to do more outreach on the ADA, and instruct HHS to do more outreach about a new Medicaid state option to allow people with disabilities to buy into Medicaid as their earnings increase (an Administration proposal that was enacted as part of the Balanced Budget Act last year).

In addition, you will announce that we are working with Sens. Kennedy and Jeffords on additional health care legislation for people with disabilities who want to return to work. This will be very good news to the disability community, since it is their top priority. The Senators have introduced a bill with a cost of \$5 billion over five years. We are working with their staff on a more affordable alternative.

Children and Families -- Nutrition Bill. With Administration support, the House on Monday passed a reauthorization bill for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC); the Summer Food Service Program; the Farmers Market Nutrition Program; the Nutrition Education and Training Program; and State administrative support for the School Lunch Program. The bill moves forward your after-school care agenda by incorporating Administration recommendations -- such as enabling States that are enrolled in the School Lunch and Breakfast Program to provide snacks to children in after-school education and enrichment programs, and allowing institutions that provide after-school care for "at-risk" school children aged 12 through 18 to participate in the Child and Adult Care Food Program. The bill also strengthens protections against WIC fraud and abuse, and requires states participating in WIC to provide program participants with education on drugs and alcohol abuse and their effects on children. The Senate is expected to act on its bill shortly.

Children and Families -- Child Care: **On Thursday, the House voted unanimously out of full committee the Quality Child Care for Federal Employees Act, and both the House and Senate are likely to pass the bill by unanimous consent next week. The legislation in part mirrors the executive memorandum you issued in March to improve federally-sponsored child care in the executive branch, by ensuring proper background checks of child care providers, and achieving full accreditation of child care facilities. The pending legislation applies to all federally sponsored child care (executive, judicial and legislative branches), and includes other important provisions, such as: (1) giving GSA new oversight responsibilities for most federally-sponsored child care and directing GSA to develop, issue and enforce uniform health and safety standards; and (2) authorizing agencies to use appropriated funds for child care tuition subsidies. The Senate sponsors are Jeffords and Landrieu; the House sponsors are Gilman and Morella.**

Crime/Guns -- Appropriations: During the Senate's consideration of the Commerce, Justice appropriations bill this week, a few important gun issues received floor votes. 1) Child Safety Locks -- Senator Boxer's amendment to require federal gun dealers to provide a child

safety lock with every handgun was tabled by a vote of 61-39, but a Craig amendment to simply require dealers to make firearm safety devices available for sale passed by 72-28; 2) Child Access Prevention -- Senator Durbin's amendment to establish liability for failure to store firearms away from children was tabled by a vote of 69-31; and 3) Brady Law Implementation -- Senator Smith's (R-NH) amendment to prohibit the FBI from collecting a fee for Brady background checks when the National Insta-Check System goes into effect in November 1998 passed with a 69-31 vote. The Smith amendment also requires the FBI to immediately destroy records collected pursuant to background checks and creates a federal cause of action if the FBI fails to do so. If FBI cannot charge a fee for checks, DOJ estimates that the cost will be \$75 million in the first year; this figure could increase substantially every year, dependent upon the states' interest or continued ability to do their own background checks.

Crime -- Juvenile Crime Legislation: This week, Sen. Sessions attempted to attach the Senate juvenile crime bill as an amendment to Commerce, Justice appropriations. While Sessions ultimately withdrew the amendment, Majority Leader Lott indicated that he would try to set aside floor time in September for consideration of the bill.

Drugs -- Methamphetamine Penalties: This week, the House Judiciary Committee marked up legislation to equalize federal penalties for methamphetamine trafficking with those for crack cocaine (5 grams = 5 years mandatory sentence; 50 grams = 10 years mandatory sentence). Under current law, 10 grams of pure meth triggers the 5-year mandatory sentence and 100 grams of meth triggers the 10-year sentence. Conversely, the Senate Commerce, Justice appropriations bill contains language included by Senator Hutchison (R-TX) which would essentially eviscerate DEA's regulatory enforcement authority over precursor chemicals for drugs such as methamphetamine. The Hutchison language would: 1) substantially raise the standard to prove violations of certain record-keeping and reporting violations of the Controlled Substances Act; and 2) lower the maximum civil penalty from \$25,000 to \$500 for most cases. Both measures substantially weaken provisions that were recently strengthened in the Comprehensive Methamphetamine Control Act you signed into law in 1996.

Partial Birth Abortion: On Thursday, the House successfully voted to override your veto of the Partial Birth Abortion bill by a vote of 296-132. Proponents of the bill picked up only one vote. A Senate vote is not yet scheduled.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:24-JUL-1998 18:51:55.00

SUBJECT: H1B q&a

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

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

TEXT:

it is possible that the Washington Post (branigan) will have a story tomorrow on H1B. The Reps. may have come to a compromise and may bring a bill to the floor next week. Peter J. is trying to get a copy of the legislation. Attached is a q&a to respond to inquiries about the compromise leg. thanks.

julie

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

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

TEXT:

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The following is a HEX DUMP:

FF57504370040000010A020100000002050000001F0C0000000200003391659B1FEFDEEE883617

**Question & Answer on H-1B visas
July 24, 1998**

Q: We understand that the Republicans have reached a compromise on H-1B legislation. Is the Administration going to support this?

A: We have not seen any new legislation and would need to look at the details of their proposal before commenting on whether we will support it.

On the substance, our position has been clear: in order for the President to sign a bill that increases the cap on H-1B visas, it must contain both a significant training component and meaningful reform to the H-1B program that ensures that employers recruit U.S. workers before applying for an H-1B worker and not lay-off a U.S. worker in order to hire an H-1B worker.

Q: Was the Administration a player in the creation of this compromise?

A: Over the last several months, we have had discussions with various members of Congress to ensure that efforts to increase the H-1B visa cap are coupled with additional training and protections for U.S. workers.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:24-JUL-1998 19:58:43.00

SUBJECT:

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

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

TEXT:

Two amendments to the weekly update on quality: Because of the Capitol Hill shooting, the bill might be delayed one or two days. Also, it looks like Specter might join in as well at the front end of the process. (Nothing for sure yet.)

cj

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:24-JUL-1998 23:17:34.00

SUBJECT: DC charter schools

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

READ:UNKNOWN

CC: Neera Tanden (CN=Neera Tanden/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Elena --

I wanted to give you an update on what has happened in the past 24 hours on DC charter schools.

House action in subcommittee today on the DC appropriations bill. The subcommittee mark fully funded charter schools -- increasing the charter school line item from \$12 million to \$32 million -- by cutting the same amount from the DC public school system. However, according to OMB, Congressman Moran spoke in the mark-up about the need to fully fund charter schools and the rest of the DC public school system. Congressman Taylor, the subcommittee chair, supposedly agreed to take this approach in the mark-up of the bill in full committee next Thursday. Taylor apparently said the additional funding would come out of the federal payment to DC -- a payment used for other purposes in the Senate but most of which Taylor had not planned to appropriate to DC at all. Moreover, Livingston also attended the mark-up and apparently made a supportive statement about this approach. This is obviously better news than expected, though I don't think we can't be certain that this agreement will hold -- particularly given that the Taylor's subcommittee took the wrong approach by cutting funds from the DC school system to fully fund the charter schools.

Rumors of Senate Action on the floor last night. Last night about 8:30 pm, we got word that the DC appropriations bill was possibly going to be brought to the floor of the Senate last night or this morning. OMB sent us a SAP to review including language on the charter school issue and a likely voucher amendment. Surprised that the bill was coming to the floor so quickly, Neera and I got a number of people on the line to assess the situation in the Senate on the bill and on the status of the charter school issue. In a conference call with OMB (Carol Thompson Cole, Janie Jeffers, and Roz Rettman) and eventually Control Board staff (Tim Leath), we discussed the charter school issue but soon learned that the bill was not going to the floor of the Senate until next week...probably later next week. Therefore, the SAP did not need to be sent last night, though it may need to be sent early next week.

Last night's conference call -- more information on the Control Board's and Senate's preliminary positions. Control Board staff indicated that

the Board's efforts this week have been focused primarily on getting very broad authority to transfer funding from one portion of their budget to another -- an approach with many benefits to the Control Board, only one of which is making it possible to transfer funding into the charter school line item. The Senate apparently was -- not surprisingly -- reluctant to provide such broad transfer authority.

The control board staff also indicated that the Senate was considering two options for addressing the charter school issue in a Manager's amendment to the appropriations bill. The first option was to take funding from the DC surplus to fully fund the charter schools. The second option was simply to direct the Control Board to fully fund charter schools. Under the second option -- unless further steps were taken in the House or in conference to provide the Control Board additional transfer authority -- the Control Board would be forced to increase funding for charter schools at the expense of other items in DC's education account. (This account includes the DC public school system, UDC, and libraries.)

When Control Board staff expressed to us concerns with both of these options, we outlined another option -- providing the Control Board specific authority to transfer funding from anywhere in the DC budget into the education account for charter schools. The staffer said he couldn't speak for the Control Board but that his recommendation to the Board would be that they notask Senate staff to take this approach. He implied that Senate adoption of this option now could jeopardize the Board's attempts to secure broader transfer authority -- essentially, he implied that he didn't want to lose one of his strongest arguments for a broad transfer authority simply in order to fix the charter school issue now. He said it might be easier to support more specific transfer authority once the bill is in conference -- apparently if the Board has given up at that point on getting the broader authority. Finally, the staffer did say that he understood the need for the Control Board to publicly state its intention to fully fund charter schools.

OMB calls to Alice Rivlin. After the call, Mike Cohen, Neera and I spoke about next steps. Carol Thompson Cole had said she would call Alice Rivlin, but we agreed that a higher-level call to Rivlin was important. Melanne called Jack Lew this morning to ask him to call Alice Rivlin to ask for two things:

- 1) for the Control Board to support an alternative in the Senate that would make it possible to fully fund charter schools without taking the funding from the DC public school system -- by granting the Control Board specific authority to transfer funding from anywhere in the DC budget into the education account for charter schools. (We also could ask the Control Board if it could quietly tolerate cuts in other programs to fully fund the charter schools)

- 2) for the Control Board to make a public statement -- at the appropriate point in the near future -- about its desire to fully fund charter schools without taking funds away from the DC public school system.

I don't believe that Jack Lew and Alice Rivlin spoke today, but I have not been able to confirm that. I will let you know anything more as soon as I find out.

Next steps. Here's my best sense of next steps for Monday. What do you think?

- 1) Find out what the Control Board's position is on this. If Jack Lew does not speak to Alice Rivlin, I think we need to identify another way to

do this quickly. Their position should affect the approach we take.
2) Convene another meeting to discuss the situation. Determine best option to pursue. This clearly needs further discussion, but here's my best sense of possible options: (I think option 1 is probably the most desirable. According to Control Board staff, options 2 and 4 are currently being considered by Senate staff. Option 5 seems to be the current Control Board strategy.)

OPTION 1 -- Support a Senate amendment granting the Board specific authority to transfer funding from anywhere in the DC budget into the education account in order to fully fund charter schools. This may make the most sense if A) the Control Board is willing to work with us to include this in the Senate bill and B) commit to using this authority to fully fund charter schools without significantly cutting the DC public school system. It may be hard to get the Senate to include this without Control Board support.

OPTION 2 -- Support a Senate amendment to take funding from the surplus in order to fully fund charter schools. This may make the most sense if the Control Board is unwilling to work with us, given problems with the following options. But OMB may well have serious concerns about this, given OMB's and the Control Board's past opposition to this.

OPTION 3 -- Identify cuts in other DC programs (outside of the education account) in order to fully fund charter schools, and get the Senate to include these recommendations in Senate amendment.

OPTION 4 -- Support Senate amendment directing Control Board to fully fund charter schools. Absent any new authority for the Control Board to allocate funds to charter schools from outside the education account, this would force the Control Board to support charter schools by cutting the DC public school system. Support for this approach doesn't seem to make sense -- given that the only way to fully fund charter schools and the DC public school system under this approach would be to rely on getting the right transfer authority in conference.

OPTION 5 -- Do nothing in the Senate. (We could still encourage the House committee to honor the apparent commitments made today by Taylor and fully fund charter schools and the DC public school system -- taking money from the federal payment that had not been fully allocated in the subcommittee mark-up. Push for the House position or the right fix in conference. But it seems like a very risky strategy to rely on the House for DC appropriations issues.)

OPTION 6 -- Encourage the Senate to include language expressing an interest in fully funding all public schools -- including charter schools -- without a specific fix. This perhaps could help leave the door open to negotiations in conference.

3) Agree on language for a SAP that reflects our decision -- or that is general enough to cover the options that we are still considering.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sarah A. Bianchi (CN=Sarah A. Bianchi/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:25-JUL-1998 17:30:24.00

SUBJECT: patients' bill of rights -- updated q&as

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

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

TO: Elizabeth R. Newman (CN=Elizabeth R. Newman/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

TO: Mark D. Neschis (CN=Mark D. Neschis/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

READ:UNKNOWN

TO: Michelle Crisci (CN=Michelle Crisci/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:

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D71]MAIL437122110.226 to ASCII,
The following is a HEX DUMP:

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7C59842F8888C9B5B6C45408E733086A7538C97483434E0C2A74C26AD08CB251EBD32F1D175571

TOP TIER TALKING POINTS

The Republican Leadership Bill (the Gingrich Bill) That Passed the House Yesterday Is More Like A Bill of Goods Than A Patients' Bill of Rights. The House Republican bill falls far short of giving Americans the patient protections they need and deserve. It leaves out millions of Americans; it leaves out critical patient protections; and it adds in "poison pill" provisions which undermine the possibility of passing a strong bipartisan patients' bill of rights this year.

- **The Gingrich bill does not apply to the individual insurance market and therefore excludes millions of Americans.**
- **It does not include many essential patient protections. It:**
 - **Does not assure patients direct access to the cancer and heart specialists they need.**
 - **Does not ensure that care will not abruptly change if a patient's provider is unexpectedly dropped or an employer changes health plans.**
 - **Does not contain sufficient provisions that prevent patients from being put at risk through unknown destructive financial incentives to limit patient care.**
 - **Does not have a sufficient enforcement mechanism, as it gives little recourse to patients who are injured or who die because of a health plan's actions.**
- **Finally, this legislation includes "poison pill" provisions, such as medical malpractice caps, that even the American Medical Association believes are intended to undermine this legislation.**

The Gingrich Bill is Designed to Give Political Cover Rather Than Give Patients the Cover They Need. Representative John Linder, Chairman of the House Republican Campaign Committee, said this week that Republicans members will be sufficiently protected if they just take a vote on the patients' bill of rights. We believe that Republicans should not just take votes for political cover, but rather we should pass a strong bipartisan patients' bill of rights that gives patients the cover and protections they need.

We are extremely disappointed that the House Republicans tried to jam through legislation to address political pressures, rather than running a fair, open process designed to develop a strong bipartisan patients' bill of rights. Their language was drafted behind closed doors; they never held hearings on this bill; and they never had a mark-up. They simply held an up-or-down vote without an open debate.

If the House Republicans wanted to develop a strong patients' bill of rights rather than a political bill of goods, they would have held fair process that was designed to develop bipartisan consensus on this important issue.

We Hope the Senate Will Have a Full and Fair Debate To Develop A Strong Bipartisan Patients' Bill of Rights. The President has called on the Senate to move quickly to have a fair and open debate. We are confident that a fair process, that allows for amendments, will produce a strong, enforceable, and bipartisan patients' bill of rights.

Q&As

Q: Yesterday the Gingrich bill passed the House. Do you view this as a setback for the Administration?

A: No we view it as a setback for the American public. We are not only disappointed with what is in the Gingrich bill, but we are dismayed by how it was developed. The Republicans developed this bill behind closed doors, with no committee mark-up, no open debates, and no amendments. The Republican vote was clearly designed to give them political cover, not to give Americans the patient protections they need.

The Gingrich bill leaves out critical patient protections. It does not assure direct access to specialists, so patients can see the cancer doctors or heart specialists they need; it does not prevent patients from being put at risk through unknown destructive financial incentives to limit patient care; and it adds "poison pill" provisions, such as malpractice caps, that are designed to undermine this legislation.

However, we are pleased that the bipartisan Dingell-Ganske substitute legislation received such a strong vote (212-217, including 10 Republican supporters). **This legislation covers all health plans, contains strong enforceable patient protections, and has no "poison pill" provisions that have nothing to do with these patient protections.** We believe that if there had been a fair and open process to consider this legislation, it would have even received even more support.

Q: Isn't the only real difference between the Democratic proposal and the Republican bill that passed the House yesterday that the Democrats assure the right to sue an HMO? Why are you making that issue the line in the sand?

A: That is not true. While many in the media have given the impression that this is the only difference in these bills, that is simply not the case. **Unlike the bipartisan Ganske-Dingell bill, or any bill the President could support, the Gingrich bill: leaves out millions of Americans; leaves out critical patient protections; and adds in "poison pill" provisions which undermine the possibility of passing a strong bipartisan patients' bill of rights this year.**

-- **It does not apply to the individual insurance market and therefore excludes millions of Americans.**

-- **It does not include many important patient protections such as ensuring direct access to cancer doctors or heart specialists that they need, or ensuring that care will not abruptly change if a patient's provider is unexpectedly dropped or an employer changes health plans. This legislation does not contain sufficient provisions that prevent patients from being put at risk through unknown destructive financial incentives to limit patient care.**

- *The enforcement mechanism in this legislation is also insufficient* as it gives little recourse to patients who are injured or who die because of a health plan's actions. **The President has always said that to make these rights real you need a real remedy.**
- **This legislation is undermined by "poison pill" provisions, such as medical malpractice caps, that even the American Medical Association does not support on this bill, because it has nothing to do with patients' rights.**

Q: But aren't you insisting that this legislation give patients the right to sue their HMOs?

A: The Administration has consistently stated that a right without a remedy is not a right at all. The state court approach in the bipartisan Dingell-Ganske legislation is certainly one approach that the President could accept, but we continue to be open to other meaningful approaches that ensure recourse for patients who have been maimed or who have died as a result of health plan actions.

As was reported recently, judges across the country believe that their hands are tied by the current law. They have explicitly stated that Congress should remove the statutory barriers of ERISA that prevent consumers from seeking a meaningful remedy when they are injured because of their health plans' actions.

Q: Mr. Norwood said on the floor yesterday that the Administration never pushed the right to sue early on in this process, despite his urging. Isn't it true that now you are pushing enforcement so that you can ensure that the patients' bill of rights becomes a campaign issue rather than the law of the land?

A: No. As we have indicated from the beginning, we want to make sure that patients who have been maimed or who have died because of their health plan's actions have some type of recourse. This has been outlined in the Administration's testimony by the Department of Labor from the beginning of this debate.

Q: Isn't this going to lead to a proliferation of lawsuits? Is that really what we need in this country -- more lawsuits?

A: We believe that having a strong internal and independent external appeals process in place will address almost all patients' grievances and that very few cases will ever make it into the courts. That is why all of the independent analyses of the Dingell-Ganske enforcement approach, including the one done by the Congressional Budget Office, have scored it as costing between a dime and a dollar per month.

There is no question that this is small price for such an important protection. Under current law, let's say that a patient is denied a critical mammography test recommended by her doctors and she is later diagnosed with stage two breast cancer. Even if it is determined that the HMO was clearly at fault, the patient can only be compensated for the cost of the test -- not for any subsequent treatment she will need and not for pain and suffering. We believe that patients

who are maimed or die because of action of their health plans ought to have some type of real compensation.

Q: The House Republicans say that their legislation does cover everyone covered in the Dingell-Ganske bill. Why are you saying that this is not true?

A: The way the legislation is drafted, it does not amend the law for the individual insurance market. As such, these protections, however limited, do not cover approximately ten million Americans. However, if the Republicans are saying it was their intention to cover all health plans, we certainly welcome that development. I would only say that the fact that this legislation was drafted behind closed doors, was not subjected to any amendments, and was rushed out for a vote, may help explain why a drafting error could occur. Having said this, we all know that the Republican Senate plan does not cover over 100 million Americans. Finally, the Gingrich bill, as I have mentioned, has serious shortcomings and a number of poison pills that make it unacceptable to the President.

Q: Are you seriously saying that if the Congress passes a patients' bill of rights that is clearly an improvement from current law, that the President would veto it. Isn't that putting partisanship ahead of progress?

A: The President is not going to sign legislation that is an empty promise. We do not want a bill that is full of provisions designed to please special interests and ignores the needs of the American public.

Q: We have not heard the President himself say the word veto when referring to the House Republican bill. Is it possible that he is keeping the door open for signing this legislation should it make it through the Congress?

A: Of course not. If the bill that was passed on Friday was presented to the Congress, the President would veto it.

Q: What is the Administration's position on the Chafee/Graham patients' bill of rights that is likely to be introduced in the Senate next week?

A: We welcome any bipartisan efforts to introduce a strong, enforceable patients' bill of rights. We have not seen the details of this legislation, however, and so it would be premature to comment on it.

Q: We have heard that the Chafee-Graham legislation has a Federal court remedies approach that provides for economic damages and does not have any caps. Would that meet the Administration's criteria for enforcement?

A: It certainly sounds like an improvement over the Republican Leadership bills' enforcement mechanisms, but without knowing the details it would be ill-advised to comment on it.

Q: Opponents are labeling the patients' bill of rights as another Kennedy plan for a government takeover of the health care system. Isn't this part of the overall White House strategy to do what you could not do in 1994: takeover the health care system?

A: Of course not. The patients' bill of rights is a narrowly drafted piece of legislation designed to provide basic protections for Americans who already have private health insurance. Supporters of the status quo frequently use reckless and inaccurate rhetoric to scare the public and the Congress. It will not work this time because the American people are scared that of a system where accountant -- not doctors -- are making medical decisions and where the bottom line is not a patient's health but profit margins.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-JUL-1998 17:51:44.00

SUBJECT: Food Safety and NAS report

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

I agree that the upcoming NAS report on single food agency is a potential problem (we don't know how much attention it will get) but it also may be a good opportunity to move the agencies into bolder than usual action. Here is my preliminary list of options for preempting/responding to the report:

1. Create a Joint Food Safety Council. Currently, there is a joint food safety budget but it comes about basically by combining the budget requests of the relevant agencies. By EO, the President could appoint the relevant agency heads to a council to annually produce a unified budget and strategic plan. One of the major criticisms is the disparate resources the different agencies have (USDA 5,000 inspectors, FDA 300). The Council could be charged with creating a plan to properly allocate resources and authority.
2. Follow-up the NAS report by appointing a panel to see how it should be implemented. This is the informal recommendation of the food safety advocates at CSPI. They would like to see the Mike Taylors, the Kesslers, etc. appointed to a panel to recomend what the next step should be in coordinating and creating a single food agency.
3. Public hearings with interested parties. The agencies have drafted a plan for this for the federal register. The hearings would center on a 'mission statement' they wrote which I'll give you at the Team leaders meeting. I think the hearings are worthhile, I don't think the mission statement stands up to scrutiny.
4. Endorse all or part of the Pallone bill. Pallone has a bill that would require all non-registering plants to register with FDA (currently meat register with USDA). It also requires quarterly inspections and works to even out the inspectors problems. The farm community has big problems with this bill, but I'm trying to get USDA to break out parts that would be done by EO or reform the bill into one we could push for.

I like the first idea the most. It is a tangible step towards unifying food safety planning. We should also try and combine it with some EO that actually does something, like from the Pallone bill.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-JUL-1998 17:56:38.00

SUBJECT: Funds for families of fallen officers

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

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

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

TEXT:

FYI. DOJ called to say they are faxing over Monday a.m. a one pager of the benefits for families of fallen officers.

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Christopher Edley to Leslie Bernstein et al re Invitation (2 pages)	07/27/1998	Personal Misfile

COLLECTION:

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

FOLDER TITLE:

[07/24/1998-07/27/1998]

2009-1006-F
kc176

RESTRICTION CODES

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

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

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

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

RR. Document will be reviewed upon request.

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

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:27-JUL-1998 09:56:15.00

SUBJECT: LRM #IMS388 - Statement of Administration Policy on HR872 Biomaterials Acc

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

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

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

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

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

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

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

TO: Robert N. Weiner (CN=Robert N. Weiner/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: Jeremy B. Rudd (CN=Jeremy B. Rudd/OU=CEA/O=EOP@EOP [CEA])
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TEXT:

The manager's amendment will be faxed to you seperately.

Total Pages: _____

LRM ID: IMS388
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Sunday, July 26, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

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

SUBJECT: Statement of Administration Policy on HR872
Biomaterials Access Assurance Act of 1997

DEADLINE: 11am Monday, July 27, 1998 -- FIRM

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

COMMENTS: House floor action (suspension of the rules) is scheduled for Today, Monday, July 27th (as early as Noon). Therefore the above deadline is firm. If we do not hear from you by the above deadline we will assume that you have no objection to the attached SAP. The manager's amendment to H.R. 872 will be faxed to you seperately.

DISTRIBUTION LIST

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LRM ID: IMS388 SUBJECT: Statement of Administration Policy on HR872
 Biomaterials Access Assurance Act of 1997

RESPONSE TO
 LEGISLATIVE REFERRAL
 MEMORANDUM

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

You may also respond by:

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

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

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

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

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

- _____ Concur
- _____ No Objection
- _____ No Comment
- _____ See proposed edits on pages _____

_____ Other: _____

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

DRAFT -- NOT FOR RELEASE

July 27, 1998

(House)

H.R. 872 - Biomaterials Access Assurance Act of 1998

(Gekas (R) Pennsylvania and 133 cosponsors)

The Administration supports House passage of H.R. 872 in the form of the manager's amendment which would protect certain biomaterials supplier from liability for harm caused by an implant. This protection would not apply to suppliers: (1) who are registered manufacturers of the implant; (2) who are sellers of the implant and who held title to the implant at the time of sale (or is related by common ownership or control to such a seller); (3) who furnish raw materials or components that fail to meet applicable contractual requirements or specifications; or (4) whose negligence or intentionally tortious conduct was a cause of the harm, if the manufacturer's liability should be reduced because of that negligence or intentionally tortious conduct or the manufacturer is insolvent.

* * * * *

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: William H. White Jr. (CN=William H. White Jr./OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:27-JUL-1998 12:17:00.00

SUBJECT: Referral Info for HHS AC Funds

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

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

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

TEXT:

Attached is the proper contact info for individuals inquiring about the Emergenct cooling Funds announced by HHS last Thursday:

- Alabama- Dept. Of community Affairs- 334-242-5442
- Arkansas- Dept. of Human Services- 501-682-8715
- Florida- Dept. Of community Affairs- 850-488-8466
- Georgia- Dept. Of Family and Children Services- 404-656-6696
- Louisiana- Dept. Of Social Services- 504-342-4016
- Mississippi- Dept. Of Human services- 601-359-4509
- North Carolina- Dept. Of Health and Human services- 919-733-3055
- Oklahoma- Dept. Of Human Services-405-521-3646
- South carolina- Division of Economic Opportuntinty- 803-734-0662
- Tennessee- Dept. Of Human Services-615-313-4700
- Texas- Dept. Of Housing and Community Affairs- 512-475-3932

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:27-JUL-1998 12:08:39.00

SUBJECT: National Moment of Silence for Capitol Police Officers Slain

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

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

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

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

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

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

TEXT:

Gil Gallegos is sending a letter asking POTUS to call for a national moment of silence for the officers killed. If we do this, we may want to consider announcing in conjunction w/ the President's attendance at the memorial tomorrow. FYI, Lott just held a Senate moment of silence.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:27-JUL-1998 12:43:17.00

SUBJECT: Complete Weekly Report

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

READ:UNKNOWN

TEXT:

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D3]MAIL46889021V.226 to ASCII,
The following is a HEX DUMP:

FF575043880F0000010A02010000000205000000495700000002000009D3C79E2D4C2C762C6C22E
42ECDD2090FA7C3AF8FC3B22FC3C26F4552C1134C6B267A8FBA463A02257D91E713473D5C29BDF
994623A067718B31830B86D9936E33FA0C0BF2F9F977CBC2AFD2994250087D7780E08151912139
943AE7873D4E1172E48F2DF57280FF18ED69EF74AF2FED524A2BD4EB8A124FE3BD63E2A29C1F46

July 24, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

RE: DPC Weekly Report

Tobacco -- Court Decision on Second Hand Smoke: This week, a Federal district court judge in North Carolina granted the tobacco industry's motion for summary judgment in a case challenging the EPA's 1993 risk assessment report declaring environmental tobacco smoke a Class A carcinogen which causes lung cancer. Specifically, the court found that the EPA failed to follow proper procedure requiring industry representation on an advisory committee responsible for providing advice to the EPA regarding the risk assessment, and held that since industry participation could have influenced the scientific findings in the report, this did not constitute harmless error. Notably, the industry did not challenge the EPA's findings regarding the harmful respiratory effects of children's exposure to ETS. In addition, numerous studies since 1993 have confirmed the EPA's findings that ETS is harmful to both adults and children. There is concern, however, that the industry will attempt to use this victory to challenge state and local anti-smoking ordinances. The EPA is currently consulting with DOJ regarding a possible appeal of this decision. We hope to schedule a September event for you to announce that the EPA will appeal, and to unveil a new EPA public service announcement which targets ETS in the home by informing parents of ways to protect their children from second hand smoke i.e., by smoking outdoors (smoking by parents in the home is a major source children's exposure to second hand smoke, which can cause sudden infant death syndrome, asthma, ear infections, bronchitis and pneumonia).

Health Care -- Provider Taxes: After your line-item veto of New York's provider taxes last Fall, we notified all states of our desire to work with them to ensure that they no longer used impermissible provider taxes to help fund the state portion of their Medicaid programs. At that time, we advised states of our intention to support legislation that gives the Secretary the authority to waive the collection of any funds owed because of impermissible provider taxes if they are brought into compliance. However, we also informed states that if Congress did not grant us that authority by August of this year, we would be forced to start disallowance process. As August approaches, it is becoming clear that Congress has no intention of passing this legislation. States that have potentially impermissible provider taxes have not worked to pass this legislation because they believe, based on previous experience, that we have no intention of enforcing this law. Members from states who are not relying on impermissible taxes do not have any desire to pass legislation that would forgive states for having illegal financing schemes. We met on

Thursday to discuss whether we should start our enforcement activities, and if so when. The meeting concluded with a recommendation to delay action until after the Congress adjourns. This will help to ensure that Congress and the states cannot criticize us because they were not given sufficient time to pass the necessary legislation. However, we are checking with the counsel's office at Justice and HHS to determine if we can delay implementation without raising legal concerns about the Federal government's lack of enforcement of current law.

Education -- NEA/AFT International Teachers Congress Speech: On July 29 you will speak to the International Congress of Teachers, an international teachers organization tied to both NEA and ATF. Because national education standards are common place in most other industrialized countries, this forum provides a good opportunity to restate the case for national standards and tests, and to renew your threat to veto the appropriations bill if it blocks work on the test, and if it fails to support necessary education investments.

Welfare Reform -- Mayor Giuliani's New Plan: In a July 20th speech, Mayor Giuliani announced he would eliminate welfare by 2000, with everyone engaged in some kind of work. He promised to move New York from the welfare capital to the work capital. The Mayor harkened back to FDR's notion of a social contract and cited RFK's concerns about welfare rendering millions of Americans dependent on handouts and thus unable to play a role in the democracy. Apparently he added a positive reference to your support for welfare reform which was not in his written remarks.

Giuliani's new approach has lots of parallels to Wisconsin -- not too surprising, since he recently hired Jason Turner, Governor Thompson's former welfare reform guru. While not publicly backing away from the workfare program he has championed, the mayor is making workfare one part of a comprehensive work first, employment-focused approach which includes private sector unsubsidized and subsidized employment. For example, he cited that over 250,000 people have gained skills and work habits they need to join the work force through the workfare program, but he challenged every business to give someone an opportunity to move from welfare to work.

The Mayor proposed to transform every welfare office into an employment center, divert applicants to work if possible so that welfare is the last rather than first resort, require mothers with newborns to attend a parenting class, expect those with disabilities not severe enough to qualify for disability payments to work (in specialized settings if necessary), and compel those with substance abuse problems to participate in work and treatment.

The Mayor's new approach sets very high expectations for both recipients and the welfare system. The question will be whether something this ambitious can be accomplished in NYC given its size, bureaucracy, political dynamics, and continuing high unemployment. It will be difficult for the nearly universal work requirement to succeed unless the mayor ensures that

adequate supports, i.e., child care, work-focused drug treatment, appropriate work opportunities for those with disabilities, are in place. In New York, as elsewhere, we must work to ensure that individuals applying for welfare obtain Food Stamps and Medicaid as need be.

Welfare Reform -- NGA Report on Employment Retention and Career

Advancement: On July 28th the National Governors Association will release a report financed by HHS on how states can help people remain employed once they have left welfare. The report emphasizes that "work first" does not simply mean placing people in entry level jobs -- it is about working with people after they are employed to help them keep their jobs, avoid returning to welfare, and advance within the labor market. This requires focusing on providing work-based learning and skill development that meets employers' needs for skilled workers. The report generally suggests states should: promote learning at the workplace; help people get jobs that give them access to career ladders; improve the quality of "transitional employment" such as work experience by combining it with education, training, career guidance and job placement; and improve access to education and training that complements work. To help people retain employment, NGA encourages: ongoing case management and mentoring; access to supportive services such as child care, transportation, health care, housing; and financial incentives such as the federal and state earned income tax credits. The report highlights innovative approaches in a number of states and communities. We are working with HHS to put out a press release on Tuesday praising the report and highlighting a May NGA fiscal report showing state are investing more in child care and work.

Welfare Reform -- Washington State Report: A recent survey by the State of Washington shows relatively high levels of employment and earnings for people who left welfare between December 1997 and February 1998. Sixty-eight percent are currently working at an average hourly wages of \$8.42. Total family income for these families, including child support, was 137% of the federal poverty level. Though Washington has a generous child care program, only 31 percent of families reported using subsidized care. More than half responded that they didn't need subsidies because they received care for free. This may be because a substantial number of people reported working nights and weekends, when people are more likely to use relatives or friends. While most people reported they had health insurance, this remains an area of concern: respondents reported that 35 percent of adults and 20 percent of children had no health insurance. Washington will be updating this study on a regular basis.

Welfare Reform -- North Carolina Conference on Job Retention: Governor Hunt has invited several thousand businesses to participate in a 'Work First Retention Conference' on July 30th. The Welfare-to-Work Partnership is co-sponsoring the event and Eli Segal will participate. Aida Alvarez may also participate. Businesses will share successful strategies for reducing turnover through transportation, mentoring, supervisor training, and skills upgrading.

Disability Issues -- Event for ADA Anniversary and Disability Task Force: This coming Wednesday, you will commemorate the eighth anniversary of the Americans with Disabilities Act by signing a directive recommended by your Task Force on Employment of Adults with Disabilities. You created the Task Force by executive order in March, and it is co-chaired by Secretary Herman and Tony Coelho. Its mandate is to determine what the federal government can do to help bring the employment rate of adults with disabilities "as close as possible" to that of the general population. The directive will instruct DOJ, EEOC, and SBA to do more outreach on the ADA, and instruct HHS to do more outreach about a new Medicaid state option to allow people with disabilities to buy into Medicaid as their earnings increase (an Administration proposal that was enacted as part of the Balanced Budget Act last year).

In addition, you will announce that we are working with Sens. Kennedy and Jeffords on additional health care legislation for people with disabilities who want to return to work. This will be very good news to the disability community, since it is their top priority. The Senators have introduced a bill with a cost of \$5 billion over five years. We are working with their staff on a more affordable alternative.

Children and Families -- Nutrition Bill. With Administration support, the House on Monday passed a reauthorization bill for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC); the Summer Food Service Program; the Farmers Market Nutrition Program; the Nutrition Education and Training Program; and State administrative support for the School Lunch Program. The bill moves forward your after-school care agenda by incorporating Administration recommendations -- such as enabling States that are enrolled in the School Lunch and Breakfast Program to provide snacks to children in after-school education and enrichment programs, and allowing institutions that provide after-school care for "at-risk" school children aged 12 through 18 to participate in the Child and Adult Care Food Program. The bill also strengthens protections against WIC fraud and abuse, and requires states participating in WIC to provide program participants with education on drugs and alcohol abuse and their effects on children. The Senate is expected to act on its bill shortly.

Children and Families -- Child Care: On Thursday, the House voted unanimously out of full committee the Quality Child Care for Federal Employees Act, and both the House and Senate are likely to pass the bill by unanimous consent next week. The legislation in part mirrors the executive memorandum you issued in March to improve federally-sponsored child care in the executive branch, by ensuring proper background checks of child care providers, and achieving full accreditation of child care facilities. The pending legislation applies to all federally sponsored child care (executive, judicial and legislative branches), and includes other important provisions, such as: (1) giving GSA new oversight responsibilities for most federally-sponsored child care and directing GSA to develop, issue and enforce uniform health and safety standards; and (2) authorizing agencies to use appropriated funds for child care tuition subsidies. The Senate sponsors are Jeffords and Landrieu; the House sponsors are Gilman and Morella.

Crime/Guns -- Appropriations: During the Senate's consideration of the Commerce, Justice appropriations bill this week, a few important gun issues received floor votes. 1) Child Safety Locks -- Senator Boxer's amendment to require federal gun dealers to provide a child

safety lock with every handgun was tabled by a vote of 61-39, but a Craig amendment to simply require dealers to make firearm safety devices available for sale passed by 72-28; 2) Child Access Prevention -- Senator Durbin's amendment to establish liability for failure to store firearms away from children was tabled by a vote of 69-31; and 3) Brady Law Implementation -- Senator Smith's (R-NH) amendment to prohibit the FBI from collecting a fee for Brady background checks when the National Insta-Check System goes into effect in November 1998 passed with a 69-31 vote. The Smith amendment also requires the FBI to immediately destroy records collected pursuant to background checks and creates a federal cause of action if the FBI fails to do so. If FBI cannot charge a fee for checks, DOJ estimates that the cost will be \$75 million in the first year; this figure could increase substantially every year, dependent upon the states' interest or continued ability to do their own background checks.

Crime -- Juvenile Crime Legislation: This week, Sen. Sessions attempted to attach the Senate juvenile crime bill as an amendment to Commerce, Justice appropriations. While Sessions ultimately withdrew the amendment, Majority Leader Lott indicated that he would try to set aside floor time in September for consideration of the bill.

Drugs -- Methamphetamine Penalties: This week, the House Judiciary Committee marked up legislation to equalize federal penalties for methamphetamine trafficking with those for crack cocaine (5 grams = 5 years mandatory sentence; 50 grams = 10 years mandatory sentence). Under current law, 10 grams of pure meth triggers the 5-year mandatory sentence and 100 grams of meth triggers the 10-year sentence. Conversely, the Senate Commerce, Justice appropriations bill contains language included by Senator Hutchison (R-TX) which would essentially eviscerate DEA's regulatory enforcement authority over precursor chemicals for drugs such as methamphetamine. The Hutchison language would: 1) substantially raise the standard to prove violations of certain record-keeping and reporting violations of the Controlled Substances Act; and 2) lower the maximum civil penalty from \$25,000 to \$500 for most cases. Both measures substantially weaken provisions that were recently strengthened in the Comprehensive Methamphetamine Control Act you signed into law in 1996.

Partial Birth Abortion: On Thursday, the House successfully voted to override your veto of the Partial Birth Abortion bill by a vote of 296-132. Proponents of the bill picked up only one vote. A Senate vote is not yet scheduled.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:27-JUL-1998 14:28:51.00

SUBJECT:

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

READ:UNKNOWN

TEXT:

Please call Marvin Krislov at 219-7684 ASAP; also Jen is back in office
62599

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Lisa M. Jones (CN=Lisa M. Jones/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:27-JUL-1998 14:42:32.00

SUBJECT: Headsup memo

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

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

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

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

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

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

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

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

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

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

TEXT:

Memo was signed on Friday, July 24.

MEMORANDUM FOR ERSKINE BOWLES

THROUGH: Jack Lew

FROM: Donald R. Arbuckle

SUBJECT: Increase in User Fees for Immigration Services

We are about to complete review of a final rule from the Immigration and Naturalization Service (INS) that would raise user fees for nearly two dozen INS services. Such services include naturalization applications, work authorization requests, and adoption of overseas children. The final rule is based on a 1995 analysis of costs for these services and is intended to fully fund the costs providing these services. The overall cost effect of this change could add as much as \$272 million per year to INS's Immigration Examinations Fee Account. The budget effects of this policy are reflected in the FY 99 Budget, and senior Administration officials have told Congress that we need to publish this rule to ensure solvency at the INS and to reduce the backlog of naturalization applications.

The proposed rule received over 2,000 comments, most of which opposed the increase in fees. Immigrant advocates are upset that INS continues to provide poor service and that the naturalization backlog continues to grow -- yet applicants will have to pay more under the new INS fee schedule. Most immigrant groups believe that the fee increase should take effect only after the INS significantly reduces the naturalization backlog. Groups are seeking a one-time appropriation of funds to increase INS's backlog reduction efforts. Jack Lew recently spoke with Congressman Becerra, Chairman of the Hispanic Caucus, who accepts the need for an immediate fee increase but believes strongly that the higher fee should be used only to process new applicants, while the backlog should be financed by some other means. Congressman Becerra agreed to work with us on an appropriate strategy to resolve these issues.

We believe that the benefits from this rule -- including program solvency and, ultimately, faster processing of applications -- justify the increase in fees. We would like to clear this rule by COB Monday. If you have any questions or concerns, please let me know immediately.

cc: Maria Echaveste
Rahm Emanuel
Larry Stein
Ron Klain
Thurgood Marshall, Jr.
Ann Lewis
Sally Katzen
Minyon Moore
John Podesta
Bruce Reed
Gene Sperling
Elena Kagan
Barry Toiv
Michael Waldman
Janet Yellen
Mickey Ibarra
Michael Deich

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:27-JUL-1998 15:04:20.00

SUBJECT: Possible bad news from Treasury

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

We haven't gotten the new draft yet because the IRS is not happy with the new language that Treasury has put forth that DOL loves (saying that Treasury assumes there IS an employment relationship. (Tax policy has been simultaneously talking to the IRS and us.) Treasury will try hard to convince them, but this could be rotten if we can't even offer what we've already put on the table. And unfortunately Lubick mentioned this wonderful new language at the Arnold&Porter meeting today, so the unions know about it.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:27-JUL-1998 16:15:28.00

SUBJECT: Youth Violence Dinner

TO: Christa Robinson (CN=Christa Robinson/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: Karin Kullman (CN=Karin Kullman/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

I just ran into Sharon Kennedy Gil who told me that journalists are likely to be on the guest list for the Youth Violence dinner on August 3. Stephanie and I were not aware that there would be any journalists at the dinner and told the President the event was closed press.

Jen -- would you please run the list of potential journalist/authors for the dinner by Amy? Then I think Stephanie and I need to follow up with the President to reconfirm his interest. thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:27-JUL-1998 16:19:52.00

SUBJECT:

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

TEXT:

Call Phil Caplan re: timing of weekly report 62702

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:27-JUL-1998 16:37:12.00

SUBJECT:

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

TEXT:

FYI- assisted suicide mtg. w/ Jennings & Popp will be at 4:45 in the Ward Room; then H2A at 5:30

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:27-JUL-1998 16:45:28.00

SUBJECT: Draft Energy & Water Conferees Letter

TO: G. E. DeSeve (CN=G. E. DeSeve/OU=OMB/O=EOP@EOP [OMB])
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: RUDMAN_M@A1@CD@VAXGTWY (RUDMAN_M@A1@CD@VAXGTWY [UNKNOWN]) (NSC)
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: Dawn L. Smalls (CN=Dawn L. Smalls/OU=WHO/O=EOP@EOP [WHO])

READ:UNKNOWN

CC: Rosemary Evans (CN=Rosemary Evans/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: FARRAR_J@A1@CD@VAXGTWY (FARRAR_J@A1@CD@VAXGTWY [UNKNOWN]) (NSC)
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:

We aim to send the Energy & Water conferees letter tomorrow, Tuesday morning. Please review the draft and provide comments by 9am tomorrow. 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 H. R. 4060, the Energy and Water Development Appropriations Bill, FY 1999, as passed by the House and by the Senate. As the conferees develop a final version of the bill, your consideration of the Administration's views would be appreciated.

The Administration appreciates the challenges faced by both the House and Senate in funding a wide array of needs within tight budgetary constraints. However, we are concerned that the increase provided by both the House and Senate for Army Corps of Engineers projects -- \$723 million and \$566 million, respectively -- has come at the expense of other priority programs.

Army Corps of Engineers

We urge the conferees to redirect some of the unrequested funding added for Army Corps of Engineers construction activities to fully fund priority Corps activities, including the Columbia and Snake River salmon recovery efforts and Everglades restoration, at their requested levels, and to ameliorate harsh cuts in other priority programs funded by the bill.

Solar and Renewable Energy

The House-passed bill eliminates the Administration's requested increase for the solar and renewable energy program, effectively freezing the program at its current level and eliminating funding for many valuable cost-shared projects with industry. The House bill also cuts in half requested new funding for fundamental research into carbon sequestration and climate-change dynamics, a reduction of \$13.5 million from the President's request. The sum of these funding decreases would result in a reduction of about one-third -- over \$100 million -- in the President's total requested increase for the Department of Energy (DOE) for development of clean, non-greenhouse gas power sources.

The Administration strongly opposes these reductions, which would seriously undercut DOE's ability to move into the next phases of some of the most promising research now underway, eliminate accelerated introduction of clean power sources, and restrict our ability to lower greenhouse gas emissions levels. These programs provide numerous benefits, including greenhouse gas reduction, increased industrial competitiveness, increased job opportunities, reduced energy costs for

consumers, increased energy independence, and improved air quality. The conferees are urged to fully fund these important programs.

The Administration strongly supports the effort in the Senate to increase funding for solar and renewable R&D. However, the Administration would like to work with the conferees to locate an alternative to the across-the-board reduction used to offset this spending, which would, for example, require reductions in the Science account of over \$42 million and possibly lead to RIFs in departmental offices.

Department of Energy Defense Activities

The House would reduce by \$358 million, and the Senate by \$54 million, the President's request for nuclear weapons activities. The Administration strongly objects to the severe reductions in the House bill and urges the conferees to provide at least the Senate level. The House bill states that \$305 million of its reduction is to come from the use of prior-year balances. Such large balances are not available. This cut would force real reductions in critical programs needed to ensure the safety, security, and reliability of America's nuclear deterrent.

The House version of the bill would cut \$15 million from the request for the Worker and Community Transition Program and would add \$16 million for the unrequested acceleration of decommissioning activities at old facilities used for Naval Reactors Development. The Naval facilities are in safe shutdown condition and are not a threat to the environment. The Administration objects to the shifting of funds needed to assist displaced workers to accelerate low-priority activities. We urge the conferees to adopt the Senate position.

Science and Fusion

The Administration appreciates the efforts of both the House and Senate to fully fund the majority of the Science accounts. However, the Administration strongly urges the conferees to approve the Senate level of \$157 million for construction of the Spallation Neutron Source (SNS) in FY 1999, which is equal to the President's request. The Administration is committed to providing the resources required to complete the SNS on schedule and on budget.

The Administration also objects to the elimination of funds for the Next Generation Internet (NGI) program by the House and the overall reduction made by the Senate to Computational and Technology Research (the parent account for NGI). The House bill would eliminate all of the requested funding, and the Senate bill does not provide the total \$22 million request. The NGI initiative, announced by the President last Fall, provides the R&D necessary to revolutionize high-speed networking capabilities in the United States. Some DOE laboratories and their researchers will be among those to benefit from the 1,000-times faster network to be established by the NGI. Further, the multi-agency NGI effort would suffer without the participation of the Department's leading networking researchers and advanced user communities.

Finally, the Administration objects to the House's elimination of funding for participation in the extension of the international planning process to design the International Thermonuclear Experimental Reactor (ITER). This action would negatively impact U.S. participation in present and future international fusion efforts. Moreover, since the United States hosts the international design center in San Diego, California, the Administration is concerned that a U.S. withdrawal from the ITER-planning

process would undermine the credibility of the United States in future negotiations on international science projects, in general.

Environmental Management

The Administration objects to the \$230 million and \$275 million cuts in the House and Senate bills, respectively, for the Defense Environmental Management Privatization account. Likewise, the Administration opposes the \$47 million reduction in the House bill and \$77 million reduction in the Senate bill for the Uranium Enrichment Decontamination and Decommissioning Fund. The House and Senate assume the availability of prior-year balances (\$30 million in the Senate bill, \$94 million in the House bill). The Department intends to use these balances to meet ongoing requirements. Therefore, the use of prior-year balances would force real reductions in work needed to meet required compliance milestones and to complete nuclear waste cleanup of DOE facilities. The Administration strongly urges the conferees to fully fund these important programs.

Nuclear Waste Disposal

The House-passed bill's reduction of \$30 million to the request for the civilian radioactive waste program, combined with its directive to reduce support services by ten percent, would significantly reduce the quality of data and analysis for the Draft Environmental Impact Statement (DEIS) at Yucca Mountain. A quality DEIS, which is an FY 1999 milestone, is a necessary prerequisite to an FY 2001 Site Recommendation. Likewise, we oppose the Senate's diversion of \$15 million requested for the Defense Nuclear Waste Disposal Account to begin long-term research on accelerator transmutation of waste, a highly controversial and costly technology that, even if ultimately found feasible many years from now, will require a reprocessing infrastructure and not obviate the need for permanent nuclear waste disposal.

Bureau of Reclamation

The Administration urges the conferees to fund the request for the California Bay-Delta program at least at the House level and to acknowledge the need to extend the program's authorization. We also urge the conferees to restore cuts to key Bureau of Reclamation programs -- the \$16 million House reduction and \$10 million Senate reduction to the environmentally important, user-financed Central Valley Project Restoration Fund and the \$11 million House cut to vital dam safety work.

Tennessee Valley Authority

The Administration objects to the House bill's elimination of all appropriations for the Tennessee Valley Authority (TVA). TVA's non-power programs should receive Federal appropriations just as similar programs in other regions of the Nation are financed by appropriations to other Federal agencies. We urge the conferees to adopt the Senate position.

Other Issues

The Administration strongly objects to the House bill's provision of only \$5 million of the \$34 million requested for the Nuclear Energy Research Initiative and the Nuclear Energy Plant Optimization program and urges the conferees to restore funding to the requested level.

The Administration requests that the conferees revise, or eliminate,

section 505 of the House version of the bill that would require the Nuclear Regulatory Commission (NRC) and other agencies to regulate environment, safety, and health concerns at the Lawrence Berkely National Laboratory (LBNL). As drafted, this provision fails to address major legal issues associated with NRC regulation of nuclear safety at LBNL. Specific statutory authorization may also be needed to provide appropriate agencies with proper jurisdiction for regulating occupational safety and health at that facility. In consultation with congressional committees, the Administration is developing a plan for regulation of both occupational and nuclear safety within the DOE complex.

The Administration objects to section 306 of the House bill, which would prohibit the Department from developing products or services for sale outside the Federal Government that are also produced in the private sector. This provision appears to preclude the Department from helping private sector entities to develop products or services, and from making sales of excess Department of Energy commodities or materials.

The Administration objects to section 306 in the Senate bill. This section would impair DOE's ability to ship transuranic waste to the Waste Isolation Pilot Project (WIPP). Transuranic waste at Savannah River, Hanford, Mound, and Los Alamos sites could not be transferred to WIPP for disposal. This language would also prevent closure of the Rocky Flats site by FY 2006, eliminate savings of up to \$1 billion, and add millions more in costs.

We look forward to working with the conferees to address our mutual concerns.

Sincerely,

Jacob J. Lew
Acting Director

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:27-JUL-1998 17:04:00.00

SUBJECT:

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

TEXT:

Chris wants you to come to the assisted suicide mtg. in the Ward room-
starting now

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:27-JUL-1998 18:13:34.00

SUBJECT: LABOR Report on HR4037, A bill to require the Occupational Safety and Heal

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

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

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

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

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

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

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

TO: John F. Morrall III (CN=John F. Morrall III/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

TO: Lori Schack (CN=Lori Schack/OU=OMB/O=EOP@EOP [OMB])

READ:UNKNOWN

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

TEXT:

----- Forwarded by Melissa N. Benton/OMB/EOP on 07/27/98
06:10 PM -----
Total Pages: _____

LRM ID: MNB213
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Monday, July 27, 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: LABOR Report on HR4037, A bill to require the
Occupational Safety and Health Administration to recognize that electronic
forms of providing Material Safety Data Sheets provide the same level of
access to information as paper copies and to improve the presentation of
safety and emergency information on such Data Sheets.

DEADLINE: 1 p.m. Tuesday, July 28, 1998

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

COMMENTS: The House Education and the Workforce Committee is scheduled to
mark up this bill the morning of Wednesday, July 29th.

DISTRIBUTION LIST

AGENCIES:

61-JUSTICE - L. Anthony Sutin - (202) 514-2141
94-Occupational Safety & Health Rev Comm - William J. Gainer - (202)
606-5380
52-HHS - Sondra S. Wallace - (202) 690-7760
25-COMMERCE - Michael A. Levitt - (202) 482-3151
107-Small Business Administration - Mary Kristine Swedin - (202) 205-6700

EOP:

Barry White
Larry R. Matlack
Lori Schack
John F. Morrall III
Daniel J. Chenok
Bruce W. McConnell

Richard J. Turman
Kate P. Donovan
Robert G. Damus
Sarah S. Lee
Karen Tramontano
Jonathan Orszag
Elena Kagan
Janet R. Forsgren

LRM ID: MNB213 SUBJECT: LABOR Report on HR4037, A bill to require the Occupational Safety and Health Administration to recognize that electronic forms of providing Material Safety Data Sheets provide the same level of access to information as paper copies and to improve the presentation of safety and emergency information on such Data Sheets.

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

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

Dear Chairman Goodling:

I am writing to convey the Administration's position on H.R. 4037, which attempts to improve electronic access to and understandability of material safety data sheets. I regret that the Administration cannot support H.R. 4037 in its current form. On April 29, 1998, the Occupational Safety and Health Administration (OSHA) testified before the Subcommittee on Workforce Protections regarding an earlier version of the bill, H.R. 3519. At that time, OSHA testified that, although the proposal was well intentioned, such legislation was unnecessary and unwise at this time. That view has not changed with regard to H.R. 4037.

Background. OSHA's Hazard Communication Standard (HCS) guarantees workers the right to know the hazards and identities of the chemicals to which they are exposed in their workplaces. This standard helps prevent injuries and illnesses by ensuring that: (1) employers have the information necessary to design appropriate protective programs to reduce employee exposures, and (2) workers understand how best to protect themselves from excessive exposures.

The HCS includes three basic requirements, all of which are necessary components of an effective hazard communication program. First, each container must be labeled with information about the identity and hazards of the materials it contains. This serves as a quick snapshot of the most critical information regarding the chemical, and is located where the employee is using it. Secondly, the material safety data sheet (MSDS) must provide detailed information about the chemical, its hazards, and associated protective measures; it serves as a reference source for workers, employers, and safety and health professionals. As such, it contains technical information about a wide range of effects and protective measures, and has a diverse audience. Third, the standard requires that workers be trained. Training enables the employer to explain the technical information, ensure that workers know where to get additional information if necessary, and discuss the protective measures implemented in that particular workplace for the hazardous chemicals present.

Electronic Access. As introduced, H.R. 4037 requires OSHA to amend its Hazard Communication Standard (HCS) to allow electronic access to MSDSs--access the standard already permits. When the HCS was first promulgated in 1983, no means of electronic access were available. As electronic methods of access developed, OSHA issued interpretations permitting their use and ultimately revised the HCS in 1994 to reflect these policies. Requiring that OSHA undertake a rulemaking to permit electronic access--access that is already explicitly addressed in the existing standard--is a duplication of effort and a waste of valuable resources.

In addition, the bill specifies "information" to be provided, implying

that the actual MSDS need not be available. Such language is unacceptable, and contrary to the intent of the standard. The HCS ensures workers ready access to information in MSDSs about chemicals used in the workplace that could endanger their health or safety. It is important that workers be able to access the information contained in MSDSs immediately in the case of an emergency, and as a matter of course when simply trying to determine how a chemical affects them.

In addition, the emergency back-up provision in the bill is unclear. The regulatory text of the HCS does not address this issue. At the recommendation of the National Advisory Committee on Occupational Safety and Health (NACOSH), OSHA recently revised a compliance directive which directly addresses it. NACOSH, which is a tripartite committee of industry, labor, and public representatives, believes that electronic access should only be used if there is a back-up system available in the event of a power outage, system failure, or other emergency. OSHA does not specify what type of back-up system should be used because the standard is performance oriented and allows employers flexibility of compliance options. We know, for example, of employers who have put their MSDSs on compact disks as a back-up, or who have a freestanding laptop that is not connected to the system but has the MSDSs. There are a number of alternative means of addressing this issue.

Standardized Format for MSDSs. H.R. 4037 requires every MSDS in the country to be changed. The HCS is performance-oriented and does not require MSDSs to be in a specific format. However, there has been a significant private sector initiative to develop a standard order of information. It has been published as an industry consensus standard under the American National Standards Institute (ANSI). This same format has been endorsed by industry internationally by the International Council of Chemical Associations; has been adopted by the European Union; is permitted to be used in Canada; and is incorporated into a recommendation of the International Labor Organization. It thus has significant endorsement both nationally and internationally.

Development of this ANSI standard was based on significant consultations with both the producers and users of MSDSs. ANSI discovered, as OSHA has during its rulemaking on this subject, that there are many stakeholders with often different and conflicting views. ANSI sought to address these views by including an emergency overview for workers and emergency responders at the beginning of the MSDS, followed by the more specific and detailed information needed by other MSDS audiences.

Modification of this voluntary industry format would be required to comply with H.R. 4037 as drafted. It would require a format with an emergency overview that is different from the one in the ANSI standard. The burden imposed on manufacturers would be significant, without commensurate measurable benefits.

In addition, there is an extensive international effort underway to harmonize hazard communication requirements including those for MSDSs. The work on MSDSs has just begun, and it will be several years before the completed system is available for implementation. OSHA is actively involved in this activity, as are stakeholder representatives and other Federal agencies. The requirement in H.R. 4037 for employers to change MSDSs now would not only be extremely burdensome, but might also necessitate a second round of changes within a few years, when an internationally harmonized system is completed. While a change at that time would be accompanied by benefits associated with reducing barriers to trade and increasing overall protection, H.R. 4037 would have no such

benefits. Rather, H.R. 4037 would require additional near-term cost and impose an unnecessary, significant paperwork burden associated with requiring that thousands of MSDSs be prematurely changed. The MSDS format should not be changed until an internationally-agreed format is available through the harmonization process.

Study. Finally, the bill requires the Secretary of Labor to initiate a study to address the comprehensibility of MSDSs. OSHA has already funded a survey by the University of Maryland to assess the literature dealing with the comprehensibility of MSDSs. The study may meet this requirement. If the authors believe another study is required, sufficient funding should be provided.

OSHA's HCS is based on many years of rulemaking, and extensive evidence in the rulemaking record. Hazard communication involves complicated issues and diverse opinions among stakeholders. The current provisions represent a balance of the concerns expressed and the needs demonstrated by these various groups. The Administration agrees that electronic access to MSDSs, along with efforts to improve the ease with which they are understood by those who use them, can be beneficial. However, H.R. 4037 as drafted creates a significant burden with little discernable benefit. Therefore, we cannot support the bill at this time.

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

Sincerely,

Alexis M. Herman

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

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

TEXT:

HR 4037 IH

105th CONGRESS

2d Session

H. R. 4037

To require the Occupational Safety and Health Administration to recognize that electronic forms of providing Material Safety Data Sheets provide the same level of access to information as paper copies and to improve the presentation of safety and emergency information on such Data Sheets.

IN THE HOUSE OF REPRESENTATIVES

June 11, 1998

Ms. GRANGER (for herself and Mr. ROEMER) introduced the following bill; which was referred to the Committee on Education and the Workforce

A BILL

To require the Occupational Safety and Health Administration to recognize that electronic forms of providing Material Safety Data Sheets provide the same level of access to information as paper copies and to improve the presentation of safety and emergency information on such Data Sheets.

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

SECTION 1. OSHA RECOGNITION OF ELECTRONIC MSDS'S.

Section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)) is amended by adding at the end the following:

`(9) Not later than 180 days after the date of enactment of this paragraph, the Secretary shall modify the regulations, contained in section 1910.1200(g) of title 29, Code of Federal Regulations, to clarify that an employer complies with the standard contained in such regulations if the employer makes information on each hazardous chemical used in the workplace readily accessible (available for retrieval immediately in the case of an emergency) to employees through electronic access or other alternatives to paper copies. Emergency back-up requirements for such electronic access systems shall not exceed the requirements placed upon traditional, paper storage systems.'.

SEC. 2. STANDARDIZATION FORMAT FOR MSDS'S.

Section 6(b) of the Occupational Safety and Health Act of 1970 (29 U.S.C. 655(b)) (as amended by section 1), is further amended by adding at the end the following:

`(10) (A) Not later than 180 days after the date of enactment of this paragraph, the Secretary shall modify the regulations, contained in section 1910.1200 of title 29, Code of Federal Regulations, to require that information on hazardous chemicals in a Material Safety Data Sheet (referred to as 'MSDS') shall be presented in a format that includes an emergency overview which warns of those health and physical hazards that require immediate attention in an emergency situation. Such information shall be featured prominently on the first page of the MSDS and it shall describe emergency first-aid, handling, and clean-up instructions and note the material's appearance and physical state.

`(B) The emergency overview under subparagraph (A) shall require information on all hazardous chemicals produced, imported, or used to be presented at a language and comprehension level that is consistent with the technical proficiency of the target audience. For sections of the MSDS that are intended for all readers or audiences, the language used should be understandable to the widest audience possible and should be written with a minimum of technical wording.'.

SEC. 3. STUDY.

Not later than 90 days after the date of the enactment of this section, the Secretary shall initiate a study that assesses and measures the comprehensibility of hazard warnings to the average industrial worker as they would be presented under section 6(b) (10) (A)

of the Occupational Safety and Health Act of 1970. Upon completion of the study, the Secretary shall prepare a report and make it available to chemical manufacturers and importers required to prepare Material Safety Data Sheets under regulations published as section 1910.1200(g) of title 29, Code of Federal Regulations.

END

===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:27-JUL-1998 19:34:21.00

SUBJECT: Here's my attempt at new paragraph.

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

READ:UNKNOWN

TEXT:

Please review and edit away. I will send off to Justice as soon as I hear from you.

cj===== ATTACHMENT 1 =====

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D96]MAIL47214041N.226 to ASCII,

The following is a HEX DUMP:

FF57504370040000010A0201000000020500000002B0800000002000025DDE746D18DA1FE6D8CF6
DCD7A2DB10851D641AF61DBA7856134871D9CC93D69E8CB69D8C4F48CF280BACE502956A555EFE

NEW INSERT FOR 2nd PARAGRAPH. (This would be added onto the 3rd paragraph.)

The President is opposed to assisted suicide and any Federal support for it. As such, he is open to working with you and other interested Members of Congress on this complex but extremely important issue. Having said this, the Administration believes that H.R. 4006 represents a flawed approach to the Federal regulation of medicine. We are particularly concerned that the insertion of the Drug Enforcement Agency (DEA) into the role of overseer of the practice of the medicine would inevitably divert agency attention away from the core mission of strictly controlling Schedule I drugs and preventing the diversion of and trafficking in all scheduled drugs.

Determination of whether... (Start new paragraph here)

cj

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:27-JUL-1998 19:37:15.00

SUBJECT: URGENT: SENATE TREASURY/POSTAL SAP

TO: G. E. DeSeve. (CN=G. E. DeSeve/OU=OMB/O=EOP@EOP [OMB])
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: RUDMAN_M@A1@CD@VAXGTWY (RUDMAN_M@A1@CD@VAXGTWY [UNKNOWN]) (NSC)
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: Dawn L. Smalls (CN=Dawn L. Smalls/OU=WHO/O=EOP@EOP [WHO])

READ:UNKNOWN

CC: Rosemary Evans (CN=Rosemary Evans/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: FARRAR_J@A1@CD@VAXGTWY (FARRAR_J@A1@CD@VAXGTWY [UNKNOWN]) (NSC)
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:

We now expect the Senate to turn to the Treasury/Postal FY99 Appropriations bill tomorrow around 11am. Please note: Potential amendments are listed on the last page and include 1) sunsetting the tax code: Sect. of Treas veto recommendation; & 2) transfer of satellites to China: Senior advisors veto if amendment is included - need WW decision (NSC feels strongly about seniors advisors veto). Please provide comments/clearance by 10am Tuesday. Thanks.

H.R. 4104 -- TREASURY AND GENERAL GOVERNMENT
APPROPRIATIONS BILL, FY
1999
(Sponsors: Stevens (R), Alaska; Campbell (R), Colorado)

This Statement of Administration Policy provides the Administration's views on S. 2312, the Treasury and General Government 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. The President's FY 1999 Budget proposes levels of discretionary spending for FY 1999 that conform to the Bipartisan Budget Agreement by making savings in mandatory and other programs available to help finance this spending. In the 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 would be used to increase high priority discretionary programs, including those funded by this bill. In addition, we hope that the Senate will reduce funding for lower priority and unrequested discretionary programs.

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

Year 2000 Computer Conversion

In the FY 1999 Budget, the President requested more than \$1 billion for Year 2000 (Y2K) computer conversion. In addition, the budget anticipated that additional requirements would emerge over the course of the year and included an allowance for emergencies and other unanticipated needs. It is essential to make Y2K funding available quickly and flexibly as new needs arise. The Administration appreciates the Committee's action to provide \$3.25 billion in contingent emergency funding for this purpose. We urge Congress to leave as much as possible of the reserve unallocated so that funds are available to address emerging needs.

Obligation Delays

The Administration strongly objects to language in the Senate Committee bill that would impose \$592 million in obligation delays on Treasury programs. These provisions would prevent expenditure of funds before

September 30, 1999, effectively reducing program levels for FY 1999 and seriously hindering Treasury program operations. For example:

For the IRS, the obligation delay of \$175 million for Tax Law Enforcement would result in a six-percent reduction in personnel and a loss of substantial tax collections. The \$69 million obligation delay for Information Systems would effectively halt IRS's modernization efforts until the following fiscal year, jeopardizing efforts to refocus the IRS on providing good customer service for taxpayers.

For Treasury Enforcement, the obligation delay of \$28 million for Customs's Salaries and Expenses would hinder Customs's efforts to combat drug smuggling across the southern tier of the United States and to detect shifts in trafficking patterns, and would inhibit maintenance of essential equipment. The \$23 million obligation delay against Customs's Operations and Maintenance, Air and Marine Interdiction Programs account would lead to a reduction in interdiction flight hours, cripple essential maintenance for air and marine fleets, and result in a deterioration of air and marine fleet assets. The \$14 million in obligation delays for the Secret Service would cause unacceptable risks to Presidential safety.

Internal Revenue Service

The Administration appreciates congressional support for IRS information technology investments. However, the Administration urges the Senate to adopt the \$210 million for modernized information systems provided in the House bill.

U.S. Customs Service

The Administration is concerned about the funding level for Customs's Automated Commercial Environment (ACE). Without major revisions to the existing system, Customs cannot keep up with increasing trade volumes nor can it be responsive to the requirements stated in the 1993 Modernization Act and the needs articulated by industry. The Committee has funded only \$8 million of the requested \$56 million level, and has imposed an obligation delay against the \$8 million provided, which would cause the modernization effort to come to a halt. To accommodate the full amount requested, the Administration has proposed funding the majority of ACE requirements through a user fee paid by those who stand to benefit most from this system, the trade community.

Bureau of Alcohol, Tobacco and Firearms (ATF)

The Administration appreciates the efforts of the Committee to fully fund the President's Youth Crime Gun Interdiction Initiative. This initiative is an important part of the Administration's overall strategy to curb youth gun violence.

The Administration requests reconsideration of funding for the Violent Crime Coordinator initiative, as the U.S. Attorneys have requested additional ATF support for bringing cases involving violent criminals to the Department of Justice for prosecution.

We are concerned about the Committee's lack of support for ATF headquarters relocation.

U.S. Secret Service

The Administration is concerned that by redirecting \$13 million to

Secret Service travel costs, the Committee has effectively undermined other Secret Service funding needs, resulting in a probable deterioration of critical equipment and an undermining of the Service staffing needed to provide for the protection of the President and foreign dignitaries.

Law Enforcement Vehicles

The Administration objects to the elimination of funding for Treasury law enforcement vehicle replacement. Replacement funds are critical from a public safety perspective, as aging vehicles present an inordinate risk to the lives of both Treasury personnel and the public.

Federal Law Enforcement Training Center

The Administration urges the Senate to adopt the funding level for the Federal Law Enforcement Training Center (FLETC) proposed by the President. In particular, the Committee makes no provisions for funding of a dormitory for FLETC's Glynco campus. This dormitory is needed to help FLETC absorb the increased law enforcement training needs of the Immigration and Naturalization Service and the Bureau of Indian Affairs.

Unanticipated Needs

The Committee bill fails to provide the requested \$1 million to enable the President to meet unanticipated needs in furtherance of the national interest, security, or defense. The Administration urges the Senate to include this amount to ensure that the President has the same ability to meet such needs as previous Presidents have had.

Pay Raise for Federal Judges and Senior Executives

The Administration is disappointed that the bill includes a proposal to eliminate the 1999 pay raise for Federal judges and employees paid under the Executive Schedule. Failure to provide pay raises for senior executives is eroding the value of their pay and causing severe pay compression in the executive ranks. Pay adjustments have been made for such individuals only once in the last five years. If continued, this failure will affect the Government's ability to attract and retain the executive talent that it needs. We urge the House to restore the pay raise for Federal judges and employees paid under the Executive Schedule.

Office of National Drug Control Policy (ONDCP)

The Administration appreciates the support the Committee has provided for drug control efforts in general, and for ONDCP in particular. The Administration encourages the Senate to provide the full amount requested for ONDCP's Special Forfeiture Fund, especially the national youth anti-drug media campaign. The Senate could fully fund the budget request for the media campaign by reducing amounts earmarked by the Committee for unrequested ONDCP programs. The Administration opposes bill language that would bar funding for: new ads, Internet programming, joint efforts with the entertainment industry, partnerships with community and other organizations, and evaluation of the effectiveness of the media campaign. Unless the Senate rectifies these problems, our efforts to meet the targets established in ONDCP's performance measures would be negatively affected.

Federal Buildings Fund

The Administration is pleased that the Committee has provided \$14

million for the design of a new Department of Transportation Headquarters. Providing for a Government-owned building would save taxpayers approximately \$190 million, in present value terms, compared to the cost of entering into a lease.

The Committee bill would delay the availability of funding until September 30, 1999, for the repair and alterations program (\$324 million), rental of space program (\$52 million), and building operations program (\$31 million). The Administration is concerned that a delay in obligations would essentially eliminate the FY 1999 basic repairs and alterations program, which provides for emergency repairs and ensures the operational continuity of facilities.

The Administration is also concerned that the Committee bill provides over \$500 million for 15 unrequested Federal courthouse construction projects.

Morris K. Udall Foundation

The Administration is concerned about the lack of funding for the Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation, particularly the lack of funding for the U.S. Institute for Environmental Conflict Resolution, as authorized in PL 105-156. The Administration believes that the Institute would provide valuable assessment, mediation, and training services to Federal agencies to resolve environmental disputes, thus reducing expenses due to lengthy litigation costs.

Federal Election Commission

The Administration urges the Senate to fully fund the Federal Election Commission (FEC) at the level requested by the President and provided by the House, \$36.5 million.

Paperwork Reduction Act and Congressional Review Act

The Administration shares the Committee's interest in improving the implementation of the Congressional Review Act and the Paperwork Reduction Act. However, we have concerns with several provisions of the Committee bill. We would like to work with the Committee to resolve these outstanding issues.

Language Provisions

The Administration strongly objects to section 117 of the Committee bill. This provision would undermine the authority of the President to use assets of countries under economic sanctions pursuant to the Trading with the Enemy Act or the International Economic Powers Act as leverage when economic sanctions are used to modify the behavior of a foreign state, or are used in negotiations with that state in an effort to normalize relations.

The Administration objects to language tying obligation of funds for Customs automation modernization improvements to GAO certification to Congress that measures have been established "to enforce compliance with the architecture." The Administration has no control over the nature or timing of any prospective GAO review and certification.

The Administration is concerned that section 115 of the Treasury General Provisions could limit the Secretary's discretion in determining how best

to stimulate increased electronic tax filing, which reduces IRS errors, permits more timely refunds to taxpayers, and lowers IRS tax processing costs.

The Administration supports the Joint Financial Management Improvement Program and urges the Senate to include language in Title VI that was included in the House Committee-reported version of the bill that would provide up to \$3 million from Government-wide credit card rebates in support of that program.

There are several provisions in the bill that purport to require congressional approval before Executive Branch execution of aspects of the bill. The Administration will interpret such provisions to require notification only, since any other interpretation would contradict the Supreme Court ruling in *INS vs. Chadha*.

Potential Amendments

It is our understanding that an amendment may be offered to the bill that would repeal the current tax code effective December 31, 2002 and require Congress to pass legislation establishing a new tax system by July 4, 2002. It would not be responsible for Congress to enact legislation to terminate the tax code without having already provided a reform plan to replace it. Many families, for example, would refrain from buying homes because of the uncertain tax treatment of mortgage interest and property taxes (as well as other State and local taxes). Many businesses would hire fewer workers and make fewer capital investments because of uncertainties in how taxes would affect the return on productive assets. Furthermore, the uncertainty of the size of future receipts would raise the specter of increased Federal deficits which in turn would raise interest rates and weaken or destroy economic growth. The Secretary of the Treasury has stated that he would recommend to the President that he veto this bill if it contains this amendment.

The transfer of commercial satellites from the Commerce Commodity list to the munitions list will adversely impact the U.S. satellite manufacturing industry with no benefit for national security. The current system for licensing communications satellites contains a more robust national security review process than was previously in place under the State Department system. If the amendment proposed would be contained in the final bill sent to the President, his senior advisors would recommend that he veto the bill. [Need decision on veto level - NSC feels strongly about senior advisors veto.]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:27-JUL-1998 19:47:49.00

SUBJECT: We have a new draft from Treasury

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

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

TEXT:

It incorporates all the agreements we made with DOL, except that it modifies the "because" language to reflect the compromise Treasury worked out with the IRS. I will fax copies to Cynthia and Bill, and to Marvin Krislov as well. Not as bad as I feared a few hours ago, but DOL may still perceive as back-sliding off on Friday's deal. Bill, what do you think?

Here's the compromise (most relevant language in italics):

Language DOL loved that the IRS balked at:

"Because this ruling is based on the general welfare doctrine and assumes that a recipient of payments is in a common law employment relationship, and because the considerations underlying the general welfare doctrine are unique to the determination of federal tax liability, no implication is intended as to the treatment or effect of such payments or as to whether an employment relationship exists under any other provision of law, including the FLSA and other federal and state employment laws."

New compromise with IRS that we must vet with DOL:

"Because this notice is based on the general welfare doctrine, which is unique to the determination of federal tax liability, no implication is intended regarding the treatment or effect of TANF payments (or regarding whether an employment relationship exists) under any other provision of law, including the Fair Labor Standards Act and other federal and state employment laws. This notice does not reach a determination as to whether the recipient of TANF payments is a common law employee or is self-employed. For purposes of the analysis set forth herein, however, it is assumed that the recipient of the TANF payments is a common law employee."