

NLWJC - KAGAN

EMAILS RECEIVED

ARMS - BOX 082 - FOLDER -006

[09/10/1998 - 09/13/1998]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-SEP-1998 10:09:50.00

SUBJECT: Pls welcome Teresa Jones phone 456-5594

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

READ:UNKNOWN

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

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

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

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

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

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

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

TEXT:

Teresa Jones has just joined us today as a policy assistant for the welfare and health teams. Her phone number is 456-5594 and her room is 216. Donna's old phone number (65593) will now be used by the interns. Teresa does not yet have email, but will soon.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-SEP-1998 10:34:48.00

SUBJECT: CCPA

TO: Neera Tanden (CN=Neera Tanden/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

TEXT:

There will be a Senate vote tomorrow on the motion to proceed on cloture on the Child Custody Protection Act. The D's are expected to support the motion. Once it passes, the D's will try to offer a number of very hard-hitting amendments (ie. minimum wage), hopefully forcing the R's to drop consideration of the bill.

That is the strategy for now....

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-SEP-1998 10:54:54.00

SUBJECT: DRAFT DOD APPROPRIATIONS CONFEREES LETTER

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: 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: Sara Wilson (CN=Sara Wilson/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: 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: 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: 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: Thomas A. Kalil (CN=Thomas A. Kalil/OU=OPD/O=EOP@EOP [OPD])
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: Elizabeth Gore (CN=Elizabeth Gore/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

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

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

READ:UNKNOWN

TEXT:

Below is the draft conferees letter for the Defense Appropriations bill. We aim to finalize the letter later this evening. Please provide comments/clearance by 6pm tonight. 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. 4103, the Department of Defense 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.

Both the House and the Senate have provided requested funding for many of the Administration's priorities. In particular, we appreciate the Senate's full funding of contingency operations in Bosnia at the requested level and as emergency funding. We intend to work with the Congress to ensure that full funding for Bosnia and related military readiness priorities is approved.

The Administration strongly opposes any provision, such as section 8106 in the House version of the bill, that could be read to require prior congressional authorization of actions taken by the President pursuant to his authority under the Constitution. The President must be able to act decisively to protect U.S. national security and foreign policy interests. This provision would send the wrong signal to the world about U.S. resolve to enforce Iraqi compliance with sanctions, to sustain SFOR operations in Bosnia, and to deter Serbian President Milosevic from attacks on the people of Kosovo. The President's senior national security advisers would recommend veto of a bill with such a provision that could be interpreted to restrict the President's exercise of constitutional authority.

The Administration regrets the Senate's inclusion of a provision that would prohibit the President from deploying U.S. forces to Yugoslavia, Albania, or Macedonia without first consulting with and reporting to Congress. We are opposed to any provision that could, as a practical matter, serve to constrain the President from acting in our national security and foreign policy interest, or that would require consultation and reporting that could delay the immediate and effective action of U.S. forces. The Administration has every intent to consult with Congress in such situations, but imposing a legislated ban in the absence of consultation may be read by the Serbian leadership and others as preventing the President from acting to protect U.S. interests. The Administration strongly urges the conferees to exclude this provision from the final bill.

Funding for Bosnia Contingency Operations

The Administration appreciates the Senate's inclusion of emergency funding for our ongoing operations in Bosnia. A U.S. military presence, albeit at lower force levels, is critical for continued progress

in implementing the Dayton Peace Accords. Moreover, a secure funding source for these operations at the start of the fiscal year will allow the Department to manage its readiness accounts effectively throughout the year. The Administration strongly urges the Congress to approve this funding to support U.S. troops in Bosnia and protect military readiness.

Funding for Defense Programs

Both the House and the Senate provide large increases for procurement and RDT&E programs that are not in DoD's long-range plans and are of questionable value to the Department's modernization efforts. These programs are funded at the expense of other priority programs. For example, the Senate bill adds \$255 million for three unrequested C-130J airlift aircraft, \$94 million for the Space Based Laser program, and \$50 million for advance procurement of the LHD-8 amphibious ship, which will require extensive funding in later years to complete. The House bill adds \$86 million for modifications to B-2 bombers, \$398 million for seven unrequested C-130J aircraft, and \$60 million for two F-16 fighter aircraft. Both the House and the Senate have added substantial unrequested funding -- \$220 million and \$287 million, respectively -- for National Guard and Reserve Equipment (not including C-130J aircraft).

Instead of funding unrequested programs, we urge the conferees to fully fund the Administration's request for key modernization programs, including the following:

Fighter Aircraft. The House has cut the Air Force F-22 program by \$70 million. This reduction would result in programmatic delays and significantly increase overall costs. The House also has cut the Navy F/A-18E/F program by \$220 million, which would delay deployment of the first operational aircraft and force the Navy to keep older, less capable aircraft in the fleet.

Aerostat Program. The House and the Senate have reduced the aerostat program by \$104 million and \$59 million, respectively. The House cut would terminate the program, while the Senate cut would delay the program significantly.

Chemical Agents and Munitions Destruction Program. The House cut of \$59 million and the Senate cut of \$75 million could delay a program that is on schedule to meet our obligations under the Chemical Weapons Convention.

Defense Environmental Restoration. The House cut of \$35 million and the Senate cut of \$24 million would delay by a year or more needed cleanup activities at several installations, undermining confidence in DoD's commitment to the program and possibly worsening environmental conditions.

Shipbuilding. The House and Senate have decreased funding by \$90 million and \$116 million, respectively, in research and development for the CVX-78, the next-generation aircraft carrier. The House has reduced R&D funding by \$69 million for the next-generation destroyer, the DD-21. Such deep reductions in these programs would jeopardize the Navy's ability to develop the new technologies necessary to achieve life-cycle cost savings.

Computing Systems and Communications Technology/Networks. The House has reduced funding for this program by \$34 million. Funding at the requested level is required for the development of flexible network tools to support troop deployments.

Comanche Reconnaissance Attack Helicopter. The Senate has cut requested

funding by \$18.6 million. This reduction would delay new design integration into the first prototype aircraft and flight testing of the second prototype aircraft, thereby slowing the entire program and increasing the schedule risk.

Cooperative Threat Reduction Program. The House has decreased funding by \$25 million from the requested level. This cut would delay construction of a chemical weapons destruction facility required to dismantle the Russian chemical weapons stockpile.

Defense Threat Reduction Agency. The Senate's \$27 million O&M cut takes savings over and above those already assumed in the request due to consolidation. This cut would require program reductions in areas such as training for arms control inspection escorts and could cause fewer arms control mock inspection and force protection vulnerability assessments.

Global Positioning System(GPS). The Senate has reduced GPS user equipment development by \$31 million. This equipment is a critical element of the Administration's strategy to make GPS more available for civilian navigational uses.

Electronic Commerce/Electronic Data Interchange and the Global Combat Support System. The House has reduced the Defense Information Systems Agency budget by \$11 million, which would adversely affect the Department's ability to improve business efficiencies and provide electronic capabilities to the warfighter.

Basic Defense Research Programs. The House has cut \$58 million from programs that lay the foundation for tomorrow's military superiority.
Funding for Intelligence Programs

The Administration objects to the Senate's significant reduction to the request for intelligence funding. The Senate's reduction would impede the Administration's efforts to maintain and strengthen our intelligence capabilities. The Administration urges the conferees to appropriate the full amount of the President's request to ensure that the Intelligence Community can meet the most pressing needs of our national policy makers and combatant commanders.

Year 2000 Reserve Funds

In the FY 1999 Budget, the President requested more than \$1 billion for Year 2000 (Y2K) computer conversion, including specific amounts in the requests for the agencies funded in this bill. 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. On September 2nd, the President transmitted to the Congress a request for \$3.25 billion in FY 1998 contingent emergency funding for Y2K computer conversion activities. This supplemental request would create a funding mechanism that is consistent with both the needs anticipated in the President's budget and the Senate's action creating a \$3.25 billion contingent emergency reserve to provide the resources and the flexibility necessary to respond to critical unanticipated Y2K-related requirements. It is essential that this contingent emergency funding be enacted as quickly as possible, whether through the Treasury/General Government bill or another legislative measure moving through the process earlier, particularly in light of the decision of several Subcommittees not to fully fund the base requests of a number of agencies for Y2K conversion. We urge Congress to leave as much as possible of the reserve unallocated so that funds are available to address emerging needs.

Operation and Maintenance (O&M) Adjustments

The Administration appreciates the emphasis placed by the House and Senate on preserving military readiness by funding critical readiness accounts. Force readiness could be threatened, however, by reductions made by both the House and Senate to requested funding for administration and support, civilian and military personnel under-execution, information technology, and management headquarters programs. These cuts far exceed achievable savings and would cause substantial and costly disruptions to DoD operations by diverting other O&M funds to cover must-pay requirements. Equally threatening are undistributed reductions to Contractor Advisory and Assistance Services. Cuts to these services would severely inhibit the Department's efforts to become more efficient through contracting for services that the private sector can provide most effectively, such as support for the Y2K conversion efforts.

The President's request is tightly constructed within the discretionary caps agreed to in the Bipartisan Budget Agreement. Adjustments must be carefully evaluated to ensure that DoD has sufficient funding available for its O&M programs. In addition, the Administration is concerned about additional restrictions that would hinder a field level commander's abilities to meet emerging mission requirements quickly in a constantly changing environment. We would like to work with the conferees to identify appropriate mechanisms for ensuring adequate congressional and Administration oversight of operations programs.

Overseas Humanitarian, Disaster, and Civic Assistance

The Administration regrets the \$7.2 million cut by the House and the \$13 million cut by the Senate to the President's request for the Overseas Humanitarian, Disaster, and Civic Assistance account. During FY 1997, these funds were used by U.S. forces to assist 15 countries in de-mining efforts, to execute 130 assistance and disaster relief transport missions, and to procure 300,000 Humanitarian Daily Rations. Each year, we have unanticipated requirements that drain the fund, leaving our military commanders no resources to handle emergencies. The Administration urges the conferees to restore funding to the President's requested level. This will allow U.S. forces to respond appropriately and expediently to unanticipated global emergencies.

Warsaw Initiative (Partnership for Peace) Funding

The Senate's \$15.4 million reduction to the Warsaw Initiative program could result in the cancellation or diminution of planned Partnership for Peace-related activities, with attendant adverse political and diplomatic repercussions. Growth in the DoD Warsaw Initiative program results from our successful encouragement of Partner participation in both joint exercises and interoperability programs. U.S. interests in securing Central European and NIS democratization require continued DoD engagement, which can only be accomplished with the full funding of the President's request. The Administration urges the conferees to accept the House position.

Funding for Landmines and Humanitarian De-mining Technologies

The House's \$5.5 million cut to the Remote Anti-Armor Mine System and \$9.0 million cut to the humanitarian de-mining R&D effort would disrupt progress on both of these priority programs and would delay production decisions critical to the President's initiative. Furthermore,

while the Senate version fully funds the Antipersonnel Landmines alternative R&D, it includes restrictive language which would introduce new programs with different funding and scheduling requirements. This introduction would unacceptably delay the ongoing APL alternative effort. The Administration urges the conferees to adopt the Senate position without the restrictive language provisions.

Dual Use R&D

Both the House and Senate bills significantly reduce the Administration's request for the Dual Use Applications Program (DUAP) and the Commercial Operations and Support Savings Initiative (COSSI). The House has cut DUAP by \$6 million and COSSI by \$42 million. The Senate has cut DUAP and COSSI by \$30 million each. These dual-use technology development and commercial technology insertion programs will help lower production and support costs, increase performance, and modernize many DoD systems more readily than could be done through use of DoD-unique technologies. The Administration encourages the conferees to adopt the House position for DUAP and to fully fund the Administration's request for COSSI.

Next Generation Internet

The Senate has provided only \$30 million for Next Generation Internet (NGI) funding, \$10 million less than requested. Funding this program will support research into high-rate data networking technologies that will be needed by DoD's information-intensive systems in the near future. The Administration urges the conferees to adopt the House position.

Advanced Concept Technology Demonstrations (ACTDs)

The House has reduced the request for core ACTD funding by \$35 million, to \$81 million. The Senate has reduced the request by \$6 million. This program is structured to address the urgent military needs of the joint warfighter and is vital to the congressionally-directed Joint Warfighting Program recently established at U.S. Atlantic Command. The House reduction would limit the Department's ability to test new defense system concepts early in the development phase, when changes to these systems are relatively inexpensive and provide the greatest payoff. The Administration urges the conferees to adopt the Senate position.

Infrastructure Protection

The Administration is concerned about the \$69.9 million cut made by the Senate to the Joint Infrastructure Protection program. This cut would delay action to reduce DoD and national infrastructure vulnerabilities to cyber attacks, as required by Presidential Decision Directive 63. The Administration urges the conferees to adopt the House position.

National Performance Review (NPR)

The House's drastic NPR funding cut would undermine DoD's drive to improve its business operations. The Administration urges elimination of the provision limiting DoD's support of the NPR.

Restrictive Language Issues

The Senate version of the bill contains objectionable language

concerning restrictions on the issuing of visas. The Administration believes that any new visa restrictions should be addressed through an orderly process of amending the Immigration and Nationality Act when it is clear that existing grounds of inadmissability are insufficient, and not through funding restrictions. In addition, visa restrictions should be subject to appropriate waivers. The waiver provisions in the proposed legislation would unduly restrict the President's authority to conduct foreign relations and the ability of the United States to honor its legal commitments to the United Nations. The Administration strongly urges the conferees to delete these provisions.

We look forward to working with you to address our mutual concerns.

Sincerely,

Jacob J. Lew
Director

Identical Letter Sent to The Honorable Bob Livingston,
The Honorable David R. Obey, The Honorable C.W. Bill Young,
The Honorable John P. Murtha, The Honorable Ted Stevens,
The Honorable Robert C. Byrd, and The Honorable Daniel K. Inouye

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-SEP-1998 12:36:50.00

SUBJECT:

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

READ:UNKNOWN

TEXT:

Sally K. wants to speak w/ you ASAP 62800

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-SEP-1998 12:41:11.00

SUBJECT: Re: USDA Food Stamp Waiver

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

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

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

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

TEXT:

What I suspected was true is true -- USDA has been visiting and collecting information on these waiver requests as we requested, but they're not sure how much longer they can drag this out. I've asked them to write up a status report on Arizona, Florida and a new waiver request from Wisconsin, and I think we may want to meet with them to discuss next steps.

Cynthia A. Rice
09/04/98 06:47:40 PM
Record Type: Record

To: Karen Tramontano/WHO/EOP
cc: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Kris M Balderston/WHO/EOP
bcc: Records Management
Subject: Re: USDA Food Stamp Waiver

Kris -- I can check this out.

The welfare reform law required USDA to respond to waiver requests within 60 days to

(1) approve (2) deny or (3) ask more questions. When we last met in the EOP on this topic, we agreed that USDA should ask Arizona more questions; in April, we told USDA to do the same thing for Florida. Historically, USDA has been good about following our guidance but I will call them and let you know.

Karen Tramontano
09/04/98 06:05:00 PM
Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Cynthia A. Rice/OPD/EOP,
Kris M Balderston/WHO/EOP
cc:
Subject: USDA Food Stamp Waiver

I just got a call from AFSCME informing me that our friends at USDA are
seriously considering waivers for Florida and Arizona of merit staff for
food stamp workers ----
also they heard that USDA is visiting Florida to review its TANEF Pilot --

Kris, can you check this out w/USDA

Any other info/advice pls let me know

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-SEP-1998 13:35:21.00

SUBJECT: H2A -- update

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

TEXT:

fyi

----- Forwarded by Maria Echaveste/WHO/EOP on 09/10/98
01:34 PM -----

Julie A. Fernandes
09/09/98 05:37:06 PM

Record Type: Record

To: Maria Echaveste/WHO/EOP

cc: Marjorie Tarmey/WHO/EOP

Subject: H2A -- update

Maria,

On July 30, Secretary Herman wrote Senator Coverdell indicating her commitment to establish a bi-partisan working group to examine H2A issues. In the letter, the Secretary indicated that if these efforts lead to a consensus on how best to address H2A reform issues, she would give "serious consideration " to the proposals. In August, DOL had discussions with Senator Coverdell's legislative director outlining the Administration's plans for proceeding with the bi-partisan working group. Senator Coverdell indicated that he wanted to respond to the Secretary's letter in writing, with suggestions of how to move forward.

Soon after sending the Coverdell letter, DOL made contact with Senators Wyden, Graham, Kennedy, Abraham, G. Smith and Feinstein and Representatives L. Smith, Bishop, Becerra, Watt, and Berman re: the establishment of this working group and their participation in it. However, Senator Coverdell's office has been reluctant to set a date for this first meeting (again indicating that the Senator wanted to respond to the Secretary with process suggestions). Because the commitment to establish this working group was to Senator Coverdell, his participation is key. DOL's last contact with Coverdell's staff was yesterday (Tuesday Sept. 8th). During that meeting, they again pressed for a commitment to meet next week. Coverdell's staffer is scheduled to call DOL back on Thursday (the 10th).

Our plan for the first meeting of this bi-partisan group is to focus on process issues, principles for reform, and the framework for considering policy options. Subsequent meetings will address the substantive issues.

Last week, we (DPC, NEC and OMB) held two meetings with Labor and USDA in an attempt to go through policy options for H2A reform and determine pros,

cons and recommendations. Though we have made good progress in understanding the issues, we have not made much progress toward reaching consensus between the agencies. We have another inter-agency meeting (this time, including INS) scheduled for Friday, September 11th at 11am. We hope to be able to make WH staff-level recommendations about what reform should look like sometime in the next week to 10 days, and then proceed with a Deputies and Principals meeting as soon as we can.

julie

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-SEP-1998 15:16:09.00

SUBJECT: Econ. Dev. and Race

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

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

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

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

TEXT:

Bruce/Elena:

Attached is an outline on economic development and race for the Edley project. Paul W., John Orszag, Emil, Ceci, Cynthia, Andrea and I have all worked on its development. Please let me know if this looks o.k. to you, and I will pass it on to Edley's folks. Thanks.

julie

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D12]MAIL46276235W.226 to ASCII,
The following is a HEX DUMP:

FF57504315080000010A02010000000205000000BE340000000200003451C3A0C4141C018A5942

Draft/September 8, 1998

**President's Book on Race
Chapter 6: Workplan**

Section 6.3: Economic Development and Job Opportunities

Outline

Introduction/Context

- Continuing Racial disparities and discrimination exist in the economy as a whole and within cities:
 - (1) Wage disparities, higher levels of unemployment, and low net wealth consistently shortchange large numbers of racial and/or ethnic minorities. Employment discrimination affects a significant number of all job searches.
 - (2) Concentrated poverty and racial segregation constitute major barriers to the reduction of place-based racial disadvantages.
- Building One America requires developing economic equity and opportunity programs that treat Americans of all races fairly. To do so, we must develop long-term, comprehensive programs linking the public and private sectors in rebuilding the economies of minority communities and increasing opportunities for economic advancement for all.
- The following are some broad themes as well as potential approaches:

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

- A. Employment Opportunities: Strengthen Policies which Increase Employment Rates for Minorities**
1. Target job creation in low income and minority communities
 - a. Incentives to private industry for job creation in low income and minority communities and creation of public service jobs where necessary.
 - b. Incentives for employers to hire disadvantaged workers (such as the long-term unemployed).
 - c. Infrastructure improvements in urban and rural low income and minority areas, including remediation and development of brownfields.
 2. Ensure that individuals acquire the skills required by the marketplace, particularly young people.
 3. Improve access to jobs.
 - a. Link low-income and minority workers to areas of job growth through innovative transportation programs (like DOT's Job Access program).
 - b. Improve the flow of information to minority communities about job opportunities in areas of high growth.
 - c. Improve access to child care for low-income and entry-level workers.
 4. Vigorously enforce fair employment laws, including those affecting public sector employment.
- B. Strengthen Policies Which Ensure That All Families Earn a Living Wage So That No Family with a Working Parent Must Live in Poverty**
1. Increase the minimum wage.
 2. Support enforcement of worker protections including wage and hour and equal pay laws.
 3. Encourage state and local governments to enact direct earning subsidies to workers.
 4. Increase the availability of affordable, quality child care for low and middle-income working families.

5. Expand health insurance coverage for low and middle-income working families and assistance to enable people with disabilities to work.
 6. Encourage life-long learning and skills upgrading.
 7. Increase child support enforcement.
- C. Assure that Every American Has the Opportunity to Purchase a Home or to Rent Affordable Housing**
1. Increase financial support for individuals to purchase and/or rehabilitate housing (through tax incentives, direct spending, individual development accounts, etc.).
 2. Increase financial support for access to decent, affordable housing for renters.
 - a. Increase the availability of housing vouchers.
 - b. Further develop regional housing counseling and referral agencies.
 3. Aggressively enforce fair housing and fair lending laws (e.g., through the use of pattern and practice investigations, disparate impact cases and increased testing); enhance enforcement and/or strengthen laws that promote access to mortgage loans for minorities (e.g., ECOA, the Home Mortgage Disclosure Act, and the Community Reinvestment Act).
 4. Integration
 - a. Support voluntary efforts to establish and maintain economically and racially integrated communities, including incentives to public housing agencies to reduce the concentration of housing assistance recipients in high-poverty areas and promote more dispersed housing choices.
 - b. Increase regional housing counseling efforts to encourage low-income and/or minority families to consider a wider more diverse range of neighborhoods when they make their housing decisions.

Draft/September 8, 1998

D. Further Reduce Disparities in Access to Credit, Capital and Financial Assistance from Traditional and Non-traditional Sources

1. Increase access to credit to create and expand businesses in low income and minority areas.
 - a. Promote micro-credit development lending.
 - b. Promote distressed communities as a new frontier for retail and financial institutions, so that we bring capital and jobs back to these communities.
 - c. Enforce the fair lending laws (see above).
 - d. Increase support for financial institutions focusing on these communities (community development banks).
 - e. Enhance support of venture capital funds specializing in this type of investing.
2. Increase access to banking and credit services within minority communities, such as through un-banked initiatives.
3. Link aggressive civil rights enforcement to urban revitalization by structuring settlements to develop affected communities; press for more aggressive systemic investigations which would promote revitalization as part of the case settlements.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-SEP-1998 15:39:24.00

SUBJECT: Principles of Privatization

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

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

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

TEXT:

Can you send me a copy (if you did already, it disappeared in the cyclone).
----- Forwarded by Cynthia A. Rice/OPD/EOP on 09/10/98
03:33 PM -----

Karen Tramontano
09/10/98 03:28:20 PM
Record Type: Record

To: Cynthia A. Rice/OPD/EOP
cc:
Subject: Re: USDA Food Stamp Waiver

do you have the principles (of privatization) that we worked thru w/
labor? they represent the guidance that we used w/ the labor department
and michigan -- both bruce and elena should have a copy

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-SEP-1998 18:10:20.00

SUBJECT: H2A -- Critique of Wyden bill

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

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

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

TEXT:
Attached is a quick critique of the Wyden/Graham bill.

julie

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

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D82]MAIL40019335I.226 to ASCII,
The following is a HEX DUMP:

FF57504370040000010A02010000000205000000F019000000020000A62E75FD3CD056F7DF64F6
351577DADC838F1AEB99BC8C82BF707734D8179ED1BD236F579035C1E1ABE2B325ECA27814A9F9

Problems with the Wyden/Graham Guestworker Bill

The overall concern with the Graham/Wyden guestworker bill is that it shifts costs and risks from employers to the workers and the government.

1. Reduces farmworkers' wages and earnings

Farmworkers are among the poorest and most vulnerable in our society. Average annual earnings for a farmworker family are only about \$6,500 and farmworkers are employed on average only about 23 weeks per year. The Wyden/Graham bill will lower wages and annual earnings of U.S. farmworkers:

- a. Eliminates current requirement that the lowest wage paid be based on the "adverse effect wage rate" (AEWR) -- i.e., the average statewide agricultural wage rate. This way of calculating the wage was designed to compensate for the presence of illegal workers by relying on a state-wide average, rather than a local prevailing wage (thus, dissipating the effect of the presence of illegals).
- b. Allows growers to charge farmworkers for the cost of maintenance, utilities, and repairs for grower-provided housing. This change would simply transfer some of the costs of housing to the low-wage workers. This would, in effect, lower the worker's actual earnings.

2. Growers would no longer have to guarantee any part of the work offered to recruit U.S. and foreign workers.

Under current law, workers recruited must be paid for at least 75% of the work contract period for which they were recruited. The Wyden/Graham bill will eliminate this requirement:

- a. Under the MSPA, migrant farmworkers are guaranteed 100% of the work contract period for which they were recruited.
- b. This will encourage growers to lure workers from hundreds or thousands of miles away with the promise of potentially high earnings without any obligation to fulfill any part of that promise.
- c. This may also encourage growers to recruit more workers than they actually need to hedge against uncertainties.

3. Growers would no longer have any domestic worker recruitment obligation except through the proposed Registry.

Under current law, if the grower is seeking to employ H2A workers, he must first recruit legal U.S. farmworkers for these jobs. The responsibility for this recruitment is shared between the prospective employer and the U.S. Employment Service. These recruitment requirements are widely acknowledged to be highly ineffective, but the Wyden/Graham bill will make them even less so by only relying on the proposed "Registry":

- a. Growers seeking to employ H2A workers would have no obligation to attempt to recruit legal U.S. farmworkers except through the proposed Registry. Thus, all responsibility for the recruitment of domestic farmworkers would shift to a new, untried, process for which the government and impoverished, low-skilled workers are entirely responsible. This proposed approach allows growers to concentrate all their worker recruitment efforts abroad, abandoning domestic worker recruitment to a new federal bureaucracy.
- b. The bill would allow the new registry only 14 days in which to try to locate and contact legal U.S. farmworkers to ascertain their availability and interest in accepting a grower's offer of employment and get these workers in touch with the prospective employer. This time period is drastically too short. Most U.S. farmworkers will be extremely difficult to locate and contact in short period of time due to the migratory and rural nature of their work.
- c. As a result, efforts to recruit legal U.S. farmworkers for these jobs will almost certainly be even less effective than at present and the use of foreign farmworkers will steadily increase.

4. Does not provide adequate mechanism for housing foreign guestworkers

Current law requires growers who employ H2A workers to provide housing for them. The Wyden/Graham bill allows growers to provide a payment voucher in lieu of housing unless the State certifies that adequate housing is not available in the area.

Under the Wyden bill the grower employing H2A workers would have no obligation to assure that housing is actually available and could be obtained with the voucher. Thus, many workers will likely end up without housing or be encouraged to overcrowd any available rental housing.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-SEP-1998 18:13:31.00

SUBJECT: H2A -- update

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

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

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

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

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

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

TEXT:

The attached gives the latest on DOL's work to set up the bi-partisan working group on H2A reform. According to Earl G. at Labor, they will have set up the first meeting by 6:30pm this afternoon.

julie

----- Forwarded by Julie A. Fernandes/OPD/EOP on 09/10/98
06:31 PM -----

Julie A. Fernandes
09/09/98 05:37:06 PM

Record Type: Record

To: Maria Echaveste/WHO/EOP
cc: Marjorie Tarmey/WHO/EOP
Subject: H2A -- update

Maria,

On July 30, Secretary Herman wrote Senator Coverdell indicating her commitment to establish a bi-partisan working group to examine H2A issues. In the letter, the Secretary indicated that if these efforts lead to a consensus on how best to address H2A reform issues, she would give "serious consideration" to the proposals. In August, DOL had discussions with Senator Coverdell's legislative director outlining the Administration's plans for proceeding with the bi-partisan working group. Senator Coverdell indicated that he wanted to respond to the Secretary's letter in writing, with suggestions of how to move forward.

Soon after sending the Coverdell letter, DOL made contact with Senators Wyden, Graham, Kennedy, Abraham, G. Smith and Feinstein and Representatives L. Smith, Bishop, Becerra, Watt, and Berman re: the

establishment of this working group and their participation in it. However, Senator Coverdell's office has been reluctant to set a date for this first meeting (again indicating that the Senator wanted to respond to the Secretary with process suggestions). Because the commitment to establish this working group was to Senator Coverdell, his participation is key. DOL's last contact with Coverdell's staff was yesterday (Tuesday Sept. 8th). During that meeting, they again pressed for a commitment to meet next week. Coverdell's staffer is scheduled to call DOL back on Thursday (the 10th).

Our plan for the first meeting of this bi-partisan group is to focus on process issues, principles for reform, and the framework for considering policy options. Subsequent meetings will address the substantive issues.

Last week, we (DPC, NEC and OMB) held two meetings with Labor and USDA in an attempt to go through policy options for H2A reform and determine pros, cons and recommendations. Though we have made good progress in understanding the issues, we have not made much progress toward reaching consensus between the agencies. We have another inter-agency meeting (this time, including INS) scheduled for Friday, September 11th at 11am. We hope to be able to make WH staff-level recommendations about what reform should look like sometime in the next week to 10 days, and then proceed with a Deputies and Principals meeting as soon as we can.

julie

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-SEP-1998 18:22:21.00

SUBJECT: H2A -- more update

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

According to Earl G. at DOL, he has scheduled the first bi-partisan working group meeting for Tuesday at 4:30pm.

Also, David Blair (Wyden's staffer) told Earl that one possible substitute for their current bill is to develop a program by which undocumented farmworkers found to be working in the U.S. are automatically converted to H2A workers (and thus receive housing, AEWR, etc.), rather than be deported. Seems not much of an incentive to play by the rules (including the rule that requires domestic recruitment prior to accessing the H2A program).

julie

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-SEP-1998 18:28:28.00

SUBJECT:

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

READ:UNKNOWN

TEXT:

Reminder: H2A conf. call is @6:30 in Maria's office; I have H2A paper here for you to review if you need it

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cecilia E. Rouse (CN=Cecilia E. Rouse/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:11-SEP-1998 01:30:55.00

SUBJECT: H-2A Background Materials

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

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

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

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

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

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

TEXT:
Elena and Sally,

Attached is a short background memo and chart comparing the different proposals in DOL's "idea inventory." At this time, we know that 11am works for Sally and we've left a message for Laura to find out Elena's availability. We have also left messages for Peter re: our meeting on the hill tomorrow.

-- Ceci & Julie

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

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D31]MAIL49396435T.226 to ASCII,
The following is a HEX DUMP:

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MEMORANDUM FOR ELENA KAGAN AND SALLY KATZEN

FROM: JULIE FERNANDES AND CECILIA ROUSE

SUBJECT: ASSESSMENT OF H-2A "IDEAS INVENTORY"

DATE: ~~March 10, 2010~~

[Autofield]

Attached is our assessment of the positions of USDA and DOL regarding the proposals put forth in DOL's "ideas inventory." The shaded boxes indicate important proposals for which there is agency disagreement and thus should be discussed at today's meeting. We have also attached a list of the current program requirements that includes definitions of the most important terms.

In order to better understand the agencies' positions, it is useful to understand the underlying policy tensions. Growers see themselves as having a choice between three categories of workers: legal U.S. workers, illegal workers, and H-2A workers. Which category they draw from is almost exclusively determined by total cost. For example, if the total cost of hiring a U.S. worker (including wages, taxes, housing, etc.) is higher than the total cost of hiring an H-2A worker, the grower will hire the H-2A worker. Therefore, the total compensation offered by the H-2A program becomes the effective total compensation ceiling for U.S. workers. In addition, the presence of large numbers of illegal farmworkers distorts the labor market such that the growers' response to an inability to find sufficient legal U.S. workers is to hire illegal workers, rather than increase wages or improve working conditions. Thus, though we may want to require fair wages and working conditions in the H-2A program, if the cost of using the program is too high, the growers will hire undocumented workers.

USDA's goal is to provide a steady, reliable source of farmworkers for U.S. growers. USDA believes that the domestic labor force can never completely satisfy the labor needs of agriculture, particularly during peak times, and therefore there will always be a need for temporary foreign agricultural workers. In a world in which the INS is increasingly cracking down on the employment of undocumented workers, the USDA (and the growers) would prefer that the foreign workers that they employ be authorized to work. Their goal is thus to set a wage (or total compensation) floor that is low enough that growers will readily use the H-2A program (rather than hire undocumented workers), but that is high enough to continue to attract existing U.S. farmworkers. However, they believe that an H-2A program that would set the wage (or total compensation) floor high enough to attract many more U.S. workers would drive growers into the illegal labor market.

DOL is concerned that a low wage (or total compensation) floor becomes a low ceiling for U.S. workers and therefore hurts these already impoverished workers. They are not as convinced that the domestic labor force could never satisfy growers needs at a reasonable wage; rather, they argue that agricultural wages have been kept artificially low because of the large presence of undocumented workers. Labor believes that if agricultural wages were allowed to rise,

additional U.S. workers would be willing to work in agriculture. They also assert that we can do a better job of facilitating matches between workers and employers that would give domestic farm workers more stable employment and growers access to a steady supply of workers.

As you read through the following list of proposals, you will notice that in many areas (e.g., wages, housing, transportation) the issue is whether the proposal increases the total cost to the employer or shifts those costs to the government or the farmworker. USDA generally opposes reforms that would increase grower costs. The Labor Department generally opposes reforms that transfer costs to the government or the farmworker, and favors reforms that aim at improving labor conditions or wages for U.S. and foreign farmworkers. Because the focus is on total costs (with wages and housing being the most significant areas of concern) we cannot decide on individual reform components in isolation.

Requirements (and Definitions) under the Current H-2A Program

- **Recruitment:** The agricultural employer must engage in independent positive (i.e., active) recruitment of U.S. workers, including newspaper and radio advertising in areas of expected labor supply. Such recruitment must be at least equivalent to that conducted by non-H-2A agricultural employers to secure U.S. workers.
- **Wages:** Employers must pay H-2A workers the “**adverse effect wage rate**” (AEWR), the applicable prevailing wage rate, or the statutory minimum wage rate, whichever is higher. The AEWRs are the minimum wage rates which the DOL has determined must be offered and paid to U.S. and H-2A workers, and they are established for each state. The region- or state-wide AEWR for all agricultural employment for which H-2A certification is being sought, is equal to the annual weighted average hourly wage rate for field and livestock workers (combined) for the region as published annually by the USDA.¹ The AEWRs are designed to prevent the employment of these nonimmigrant alien workers from adversely affecting the wages of similarly employed U.S. agricultural workers.
- **Housing:** The employer must provide free and approved housing to all workers, both foreign and domestic, who are not able to return to their residences the same day.
- **Meals:** The employer must provide either three meals a day to each worker or furnish free and convenient cooking/kitchen facilities. If meals are provided, then the employer may charge each worker a certain amount per day for these meals.
- **Transportation:** The employer is responsible for the following types of transportation for workers: 1) After a worker has completed fifty percent of the work contract period, the employer must reimburse the worker for the cost of transportation and subsistence from the place of recruitment to the place of work; 2) The employer must provide free transportation between any required housing site and the work site for any worker who is eligible for such housing; 3) Upon completion of the work contract, the employer must pay return transportation to the worker’s prior residence or transportation to the next job.
- **Workers’ Compensation Insurance:** The employer must provide Workers’ Compensation or equivalent insurance for all workers, both foreign and domestic.

¹Some 1998 AEWRs: California, \$6.87; Florida, \$6.77; Georgia, \$6.30; Hawaii, \$8.83; Kentucky, \$5.92; and Ohio, \$7.18.

- **Three-fourths Guarantee:** The employer must guarantee to offer each worker employment for at least three-fourths of the workdays in the work contract and any extensions. In applying this guarantee and determining any additional wages due, the following facts must be established: 1) The beginning and ending dates of employment; 2) The number of workdays between the established beginning and ending dates of the guarantee period; and 3) The hours of worktime for the guarantee. The guarantee is then established by computing seventy-five percent of the established total hours of work time in the contract period. Note that the employer may not count any hours offered on such days in which the worker refused or failed to work.
- **Fifty Percent Rule:** The employer must employ any qualified U.S. worker who applies for an available job until fifty percent of the contract period has elapsed.
- **Tools and Supplies:** The employer must furnish at no cost to the worker all necessary tools and supplies, unless it is common practice for the worker to provide certain items.
- **Labor Dispute:** The employer must ensure that the available job for which the employer is requesting H-2A certification is not vacant due to a strike or lockout.
- **Certification Fee:** A fee will be charged to an employer granted temporary alien agricultural labor certification. The fee is \$100, plus \$10 for each available job certified, up to a maximum fee of \$1,000 for each certification granted.
- **Farm Labor Contractors (Crewleaders):** A farm labor contractor is an organization or entity that either supervises, recruits, transports, houses, or solicits farm labor other than the owner of the work site. Bona fide registered farm labor contractors may be eligible to apply for and receive H-2A certification, although they generally deal with domestic laborers. Farm labor contractors would be required, as employers, to provide all the minimum benefits specified by the H-2A regulations, including the three-fourths guarantee and the fifty percent rule.

<u>Reform Proposal</u>	<u>WH</u>	<u>USDA</u>	<u>DOL</u>
Worker Recruitment			
Require "positive recruitment" of U.S. farmworkers by growers only in areas where DOL finds that there are a significant number of qualified workers willing to make themselves available for employment at the time and place	Y	okay	DOL implemented this administrative change.

needed.			
Count as "available" for employment only those U.S. workers who are identified by name, address, and SSN	Y	okay	DOL implemented this administrative change.
Post employers' H-2A job orders on America's job bank	Y	USDA would not oppose.	DOL proposal; requires job order simplification.
Strengthen the MSPA program of registering farm labor contractors to require bonding; allow H-2A employers to require bonding as a condition of employing a farm labor contractor.	Y	DOL and USDA agree to support this.	
Allow H-2A growers to include a bonding requirement for FLCs they employ.	Y	DOL and USDA agree to support this (essentially the same as the previous proposal).	
Eliminate the requirement that farm labor contractors must be used by H-2A growers if the use is the prevailing practice in the area.	N	USDA generally wants more flexibility for growers, however they are unlikely to strongly oppose DOL's opposition.	DOL strongly opposes because the goal is for the H-2A program to track prevailing practices in areas of labor protection.
Provide an exception from current program requirement to use FLCs for any FLC who has a demonstrated history of employing illegal workers or other serious labor abuses.	Y	USDA agrees.	DOL regulatory initiative.
Require use of FLCs as recruitment mechanism whenever use is "common" or "normal" (not prevailing) in an area.	N	USDA will likely oppose because grower regulations should involve the highest standard.	DOL generally supports prevailing practice. This is not likely an issue about which DOL will take a strong position.
Require payment of competitive rates for FLC services.			
Employment Eligibility Verification			
DOL work with Congress and other affected agencies to develop a reliable means of verifying individual's authorization to work as they are hired.	Y	USDA would likely agree because of their goal to decrease growers' dependence on undocumented workers as long as growers had increased access to H-2A workers.	DOL agrees.

Create a national employment eligibility verification system so that employers can check on the legal status of domestic workers who are hired during the H-2A process.	Y	INS currently has a pilot program to do just that which we support and has encouraged growers to participate in the pilot.	
Require growers using the H-2A program to use INS pilot employment eligibility verification system.	Y	USDA would likely agree as part of an overall package.	DOL would likely agree.
Growers only responsible for recruiting and hiring farm workers in the U.S. through the DOL-administered Registries (and contacting former employees); Registries are responsible -- and have only 14 days -- to locate, contact, verify employment eligibility, and refer U.S. workers to growers seeking foreign farm workers; failure to refer timely or to refer sufficient workers allows direct application for workers to Secy of State.	N	USDA likely supports this provision because it reduces the burden on employers.	DOL hates this provision because it leaves the burden of recruitment entirely to the Federal government.
Secy of State authorizes additional H-2A workers if Registry-referred workers fail to report; are "not ready, willing, able, or qualified" to do the work; or, abandon or are terminated from employment.	N	USDA likely supports this provision because it provides growers with quick access to H-2A workers if they have cannot recruit U.S. workers through the registry.	DOL would likely hate this provision because, again, it centralizes all recruitment through the Registry and absolves growers of any additional recruitment before applying for H-2A workers.
Pilot test new Registry of available U.S. farm workers; growers share responsibility for positive recruitment of U.S. farm workers.	Y	USDA would likely support a pilot of a mechanism to facilitate the hiring of U.S. workers for growers.	DOL supports a pilot of such a registry (as long as growers continue to share part of the responsibility for recruitment).
Require employers' "positive recruitment" to include: providing an 800 contact telephone number and accepting "collect" calls from worker job applicants; contacting other potential employers to link a series of job opportunities; and developing a long-term recruitment plan to reduce dependence on foreign guestworkers.	N	USDA would likely oppose such positive recruitment measures because it increases the costs to employers.	DOL would likely support these measures, but are unlikely to require that they be part of a final package.
H-2A workers covered by the MSPA, but disclosure only required at time of visa issuance.	N	USDA likely supports this measure.	DOL supports having H-2A workers covered by MSPA but likely believes that the workers should be informed of their rights when recruited rather than at the time of visa issuance (which could be after the worker has

			incurred significant costs).
DOL rulemaking regarding possible consolidation of agricultural job orders in the Interstate Clearance System.	Y	USDA agrees.	DOL agrees
Productivity Standards			
H-2A employers allowed to set minimum production standards after a "3-day break-in period."	?		
Employer-established productivity standards and quality requirements should be permitted only if they are the prevailing practice among non-H-2A employers, are bona fide, objective, justifiable, fully disclosed and implemented on a fair and equitable basis.		USDA generally opposes any additional regulations or restrictions on growers and would therefore likely oppose this idea.	DOL would likely support this idea as it is aimed at protecting U.S. workers.
Experience (and related) Requirements			
H-2A employers should be allowed to specify "agricultural experience" as a condition for hiring U.S. farm workers.		USDA would likely support because it ultimately gives the growers more flexibility in who they hire.	DOL would likely oppose arguing that it gives growers too much discretion for jobs that generally do not require substantial experience.
Disallow job qualifications, experience and reference requirements unless they are the prevailing practice among non-H-2A employers and are otherwise job-related and bona fide.		USDA would likely oppose for the same reasons that they would support specifying "agricultural experience."	DOL would likely support for the same reasons they would oppose specifying "agricultural experience."
Allow H-2A workers to move from one certified H-2A employer to another, with the final employer responsible for return transportation costs.	Y		According to DOL, this is current law.
Prohibit H-2A job orders that consolidate seasons and different crops.		USDA would likely oppose because consolidation would potentially decrease costs to growers by allowing them to group together and reduce the number of individual	DOL would likely support because it protects U.S. farm workers by requiring growers to submit individual applications.

		applications.	
Prohibit use of the H-2A program in designated labor surplus areas.	N	USDA may not disagree in theory but would likely be concerned that the designation of a labor surplus areas would not necessarily reflect the short-term labor needs of particular growers with particular crops.	DOL would support this in theory, however it would likely have concerns about how areas are designated.
Wages and Costs			
Revise H-2A regulations regarding the 3/4 guarantee to remove incentives to growers to overestimate the contract period.	Y	Agrees.	Agrees.
Consider applying the 3/4 guarantee incrementally during the contract period.	N	Oppose.	Opposes.
Eliminate the 3/4 guarantee	N	Doesn't like the 3/4 guarantee b/c wants growers not to have to pay workers if their crop is disappointing (less work in fact than they anticipated). However, they understand that this is a <u>more</u> generous rule than under the MSPA (the statute that governs non-H2A farmworkers) and thus agrees that this reform is no good.	Opposes the elimination of the 3/4 guarantee (b/c protects farmworkers by ensuring that the work that they are promised in the contract is provided, thus allowing them to make fairer judgments when choosing between jobs). However, not sure that 3/4 is a magic number.
Modify the 3/4 guarantee to allow H-2A growers to limit the contract period to "duration of crop activity" and terminate the contract period offered due to changes in market conditions.	N	Agree that effectively eliminates the 3/4 guarantee.	Agree that effectively eliminates the 3/4 guarantee.
Eliminate AEWR and instead require payment of 105% of prevailing wage for crop in the area.		Yes. They are in favor of eliminating the AEWR b/c it provides a wage higher than the prevailing wage for some H2A workers. USDA does not agree that the prevailing wage is depressed by the presence of illegals in the	No. The AEWR is calculated to compensate for the presence of illegals that depress the prevailing wage rate. It calculates the required wage as the state-wide average of all non-managerial farmworkers, thus dispersing

		workforce, but does not object to a small sweetener to the prevailing wage to replace the AEW (like the 105% proposed by Wyden)	<p>the impact of illegals. If the wage is calculated based on 105% of prevailing, it will still be a depressed wage in those industries or areas where the presence of illegals is large. However, DOL agrees that the AEW is a bit of an odd way to calculate, and that there is no magic to it.</p> <p>They want some way to calculate the wage that compensates both for the presence of illegals (wage depression) and for the fact that growers do not pay H2A workers FICA/FUDA (approx. 8%). AEW may not be magic, but 105% of prevailing does not even get the wage = to that of non-H2A workers.</p>
Eliminate AEW and require payment of the prevailing wage for the crop in the area.		USDA likes this option. They want the H2A wages to be the same as the prevailing wage in the crop and area. They dispute that wages are depressed b/c of the presence of illegals. In addition, they maintain that if the program requires a higher wage than what is being paid locally, the growers will not use the H2A program and will access the undocumented workforce.	Labor hates this idea, for the reasons above. The wage paid to H2A workers should be a fair wage -- defined as one that compensates for the wage depression caused by the presence of illegals. Labor believes that growers should have to go to the U.S. market first, offer a fair wage and good conditions, and if not successful, access an H2A market that compels them to pay a fair wage under good conditions.
Only require payment of federal minimum wage (not AEW) as a "training wage" for inexperienced workers during a training period (in the K).		Another way to undercut the AEW that USDA likes.	Another way to undercut the AEW that Labor hates.
Require increases in piece rates to reflect increases in the AEW.	Y	USDA would likely not like. This would raise the total wage cost.	Labor would like. Most farmworkers are paid by the piece, so a conversion of the piece rate to the AEW is consistent with their desire to keep or strengthen the AEW.
Prohibit H-2A employers from increasing productivity	Y	USDA would likely not like b/c this would raise the total wage cost and require farmers to	Labor would like this. It discourages the farmers from changing productivity levels in

requirements to offset increases in the AEW		set productivity levels early in the season and not allow conditions to change expectations.	ways designed to keep the wage low.
Change AEW methodology to set at 90th percentile of local market wage or 80th percentile of regional market wage.		They are generally opposed to any change that would increase the overall wage cost. However, they may be open to setting the wage at some modest percentage higher than the local prevailing wage. Thus, though these numbers are high, there may be room to work here.	Labor is generally in favor of calculations that result in a higher wage, though they see no magic in the AEW. The conflict with USDA would be over how high to set the percentile.
Apply AEW to shearers.	?	Opposed. Shearers are different.	They want more for the shearers.
Disallow any wage deductions by H-2A employers that reduce earnings below the highest required wage.		USDA would favor changes along these lines. They want to consider total cost of employing an H2A worker and compare that to total cost of hiring a non-H2A worker (legal or illegal).	Oppose. Though Labor is open to discussions that take into account total cost to growers to use the program, they do not want the farmworker wages to be too low.
Prohibit H-2A employers from fixing uniform wage rates across large areas -- states or regions.	?		
Reforms to the 50% rule as recommended by OIG.	Y	USDA agrees.	Labor agrees.
Modify existing 50% rule to only require hiring of local workers (that reside within commuting distance) but extend this obligation to the entire period of the contract.	N	Oppose. Blocks out of state U.S. crews from work.	Oppose. same reason.
Eliminate 50% rule except for workers referred through the registries <i>unless</i> there are other substantially similar job opportunities in the area.	Y	Would agree to apply the 50% rule only where equivalent jobs are not available in the area. This is currently the rule where the association in the employer. Also agrees that the 50% rule is good for U.S. workers.	Agrees.
H-2A workers should be covered under the State Unemployment Insurance System	Y	This could increase grower cost, but unlikely that they would oppose this.	Likely favor, though there is a question of whether this would only apply where U.S. farmworkers are covered under state law.
H-2A employers expressly authorized to pay hourly wage,	N	USDA might like this b/c it gives flexibility to	Labor will hate this, b/c they have asserted that

piece rate, task rate, or "other incentive payment method, including a group rate," irrespective of the prevailing payment method.		growers.	the task rate is too variable to be susceptible to a prevailing wage determination. There are also likely problems with the "group rate."
H-2A employers are in compliance with the wage requirements if "the average of the hourly earnings of the workers, taken as a group," equals the required hourly wage.	N	USDA may like this, but fairness concerns weigh against it.	Labor will not like this b/c it allow the growers to pay some workers less than the required hourly wage.
Prohibit payment by "task rate" or other variable rate method of payment.	Y	May not like b/c like grower choice.	Would likely favor. Have spoken out against the task rate.
Protect earnings level when employers convert from a piece rate to an hourly rate.	Y	USDA likely would not oppose, b/c it only holds the rate the same.	Protecting wage rates would seem a good thing to Labor.
For employers converting from hourly rate to piece rate, set piece rate to assure earnings at least 30% above AEWR.		This is another way to sweeten the wage that USDA will likely oppose.	This is another way to sweeten the wage that DOL will like, but it is -- in a way -- difficult to defend (unless you assume that growers are setting piece rates at levels well below the AEWR conversion).
H-2A workers apply for transportation reimbursement to the government (rather than the employer).		This is a shift of cost from the grower to the government. USDA will like this.	Labor does not like, for the same reason. However, as long as the cost to the grower remains the same for a U.S. worker (working under fair wages and good conditions) and an H2A worker, DOL will not fight if some overall costs are picked up by the government (as long as the cost is not coming out of their budget!).
H-2A workers may apply to the employer for transportation reimbursement, but employer not obligated to provide such reimbursement.	N	USDA may like this, b/c lowers cost for the grower. However, growers are used to paying transportation costs in this program. This cost is just part of the overall cost, and thus would go into the overall cost calculation (which, according to USDA, determines whether a grower will participate or hire illegals).	DOL will oppose. They want H2A workers to have transportation paid for. However, as noted, they may be amenable to a system that has the government assume some of this cost.

Automated Records Management System

Hex-Dump Conversion

H-2A workers not eligible for transportation reimbursement if distance traveled is less than 100 miles.	?	This is part of the cost calculation. USDA may think that this is a small step in the right direction.	Labor would likely oppose as eroding the transportation guarantee. Not likely a big issue for either side.
Pilot program for transportation advances for U.S. farmworkers.	Y	USDA would likely be open to this.	DOL would also likely be open to this (a <i>small</i> pilot).
Require H-2A employers to provide travel advances to U.S. farmworkers.			
Charge fee = FICA/FUDA taxes to finance certain program activities (housing; admin. costs; transportation)	Y	USDA is in favor. The question is how high is the fee.	Labor is not opposed to a fee that would fund certain activities. The question is how high is the fee (more than FICA/FUDA?)
Impose user fees that reflect the cost of the H-2A program.		First, we are not sure how to calculate this cost (particularly, the cost of housing). Even if we could, USDA would be concerned that it would be too high (and thus cost prohibitive for growers to use). They are open, though, to a modest user fee.	As noted, Labor is also open to a user fee. However, it is not clear that they would want to push for a fee that was a total reimbursement (making it cost neutral for the government). That would surely make it too expensive for growers to use.
Allow H-2A workers to opt out of the employer-provided meal plans.		Unclear how they would react to this.	Labor would likely think this is o.k., b/c under the current system the cost of meals is deducted from the farmworker wages. However, there is some concern about making sure that workers don't opt out and then not have adequate food for the harvest.
Require first time H-2A employers to maintain wages and working conditions previously offered.		USDA would oppose this as restricting grower flexibility.	Labor would likely favor, but it could be hard to administer.
Housing			
Apply local or state (rather than federal) housing standards to housing provided by H-2A growers.		USDA would likely favor (local laws could give more flexibility), but it is just a race to the bottom. They could be convinced that federal	Labor would likely oppose. Would want federal standards to apply in this federal program. Also, would assume that federal

		standards should apply in a federal program.	standards are stricter.
H-2A employers permitted to charge workers up to fair market value for the cost of maintenance and utilities provided.		USDA likes as a way to reduce cost.	Labor hates as a way to erode wages.
H-2A employers can charge workers reasonable amounts (up to \$25 per week) for the cost of maintenance, utilities, repair and clean-up of housing provided.		Same	Same
H-2A employers can charge a security deposit (up to \$50) to protect against "gross negligence or willful destruction of property."		USDA likes as a way to share some costs with farmworkers and make them responsible for taking care of grower-provided housing.	Labor in general would not like, but likely some compromise could be struck on this one.
H-2A employers may require reimbursement (wage deduction) from responsible worker of reasonable cost of repairing damage to housing provided that is "not the result of normal wear and tear."	Y	According to DOL and USDA, this is current law.	
Reduced user fee to H-2A growers providing housing.		This is just another way to think about total cost to growers. If we have a user fee, we have to think about what we want it to pay for.	
H-2A employers may provide a "minimum housing allowance" in lieu of housing, unless (no earlier than 8 years after enactment) a state Governor certifies that there is not adequate farm worker housing available.		USDA would like as a cheaper way to meet the housing requirement.	Labor hates this. First, there is a shortage of affordable housing generally (which is particularly acute in rural areas). Second, it is unreasonable to expect a migrant worker from another country to be able to rent any housing on his own with a federal voucher.
H-2A employers may provide a "minimum housing allowance" in lieu of housing, but must also arrange for decent housing at the allowance level.		USDA would like this as affording choice to the grower on how to comply with the housing requirement.	This is better than above, but does not address the fact of great shortages of decent, affordable housing in rural areas. Under this system, what happens if housing is not available?
Require growers to provide free housing to all U.S. farm workers (including local workers).		USDA would not like this additional cost burden on the growers.	Labor would like as an ideal, but unrealistic to add this additional burden on growers (unless heavily subsidized by the federal government).

Require H-2A growers to make their housing available for U.S. workers who arrive early.		Can't see the objection to this one.	Labor likely is in favor.
Enforcement			
Extend to Wage & Hour the authority to debar violating employers who commit serious labor standards or H-2A program violations.	Y	USDA and DOL agreed to this during our earlier process. Will be part of upcoming rulemaking.	
Issue final H-2A regulations.	Y	DOL has agreed to this.	
Narrow DOL enforcement to only allow investigations only pursuant to a complaint.	N	USDA may like this, but not sure. It would be difficult for them to argue in favor of less enforcement, when there is so little already.	DOL would hate this. They need more not less enforcement money and tools.
Institute a 12-mo. statute of limitations on complaints		USDA likely would favor.	DOL may think this is o.k.
Provide a "reasonable cause" threshold for investigations.		USDA would likely favor.	DOL may want to reserve the right to do random inspections.
Limit penalties to certain types of violations.		Unclear what this recommendation means.	
Institute a three-year and permanent debarment period for repeat violations.		USDA would likely favor.	DOL would likely favor, unless this is substantially less than current law.
Require hiring of former H-2A workers (where allowed) to offset disincentives to complain about labor violations.		USDA would oppose. This too greatly limits grower flexibility in hiring.	Not sure if DOL would see this as an effective tool to offset disincentives to complain about labor violations.
Require disclosure of terms and conditions of employment to be given to workers in their native language in plain language.		Can't imagine opposition, unless it costs a lot.	Labor would likely favor.
More timely initiation and completion of DOL enforcement		We are all in favor of timeliness.	

actions.			
Immigration Management			
H2A worker ineligible for continued participation in the program if, during the prior 5 years, the worker violates the terms of admission to the U.S.		USDA would not likely have an opposition to this in theory.	DOL would not likely have an opposition to this in theory.
H2A workers admitted to the U.S. have 14 days after termination of employment contract to search for other legal work in the U.S.	Y	USDA would not likely have an objection.	DOL would not likely have an objection.
H2A workers admitted must be issued fraud-resistant identification/work authorization documents.	Y	USDA would not likely have an objection.	DOL would not likely have an objection.
An employer may file for extension of stay to employ an H2A worker already in the country and may legally employ such a worker from the date application is made.		USDA would likely support this idea because it provides growers with easy and quick access to H-2A workers.	DOL would likely oppose this idea because it would allow growers to get around the recruitment requirement.
AG study whether H2A workers timely depart the U.S. after period of authorized employment.	Y		
Legalization for H2A workers who complete at least 6 months employment in the U.S. under the H2A program for 4 consecutive years in compliance with program requirements.	N	USDA would not likely oppose this idea. However, it does not advance their goals because they believe that growers need a ready supply of foreign workers to meet short-term labor needs. Once legalized these foreign farmer workers would likely move into other sectors of the labor market.	DOL is opposed because it a) it gives the employers additional leverage over the workers by empowering them to hold the promise of a green card out to the foreign worker and b)it undercuts our immigration policy.
Require withholding of percentage of H2A workers wages, deposited in accounts reclaimable within limited time period in home country, as incentive to repatriate.	N	USDA supports incentives to repatriate and if they believed that if this would work they would support it.	DOL would likely oppose this because 1) there is no guarantee that the workers would actually receive these wages and 2) there is no evidence that this amount of money would be an incentive to repatriate.
User fee offsetting FICA/FUDA advantage used as			

repatriation incentive	N	Same position as above.	Same position as above.
Require entry-exit control system for all H2A workers.	Y	If this were possible, USDA and DOL would support it. However, at this time INS is unable to operate an effective exit and entry control system on the land borders.	
Other issues			
Expand scope of the H2A program to include agricultural -- meat/poultry -- processing employment.			
Secretary authorized to establish cap on number of H2A visas issued pursuant to application from "independent contractors, agricultural associations and such similar entities."	Y	USDA would likely support this as long as it was a high cap.	DOL supports this provision since 80% of all H-2A applications are from independent contractors or agricultural associations.
Comprehensive report by AG and Secretaries of Labor and Agriculture.	Y		
All H2A employers non-wage practices and benefits should be subject to prevailing practice standards.		USDA will want more flexibility for growers.	DOL would likely favor tying all practices and benefits to prevailing practice standards.
Assure that U.S. and H2A workers are truly allowed to choose their employer			
Cap the number of visas available under the H2A program.		See above.	See above.
Administrative Processes			
Consolidate DOL certification and INS petition approval into one process administered by DOL	Y		
Consolidate responsibility within DOL in Wage & Hour for post-application examination and enforcement of employer	Y		

compliance with H2A program requirements.			
Government -- not employer -- responsible for reimbursing transportation costs of eligible workers.	Y		
Require employers' H2A labor certification applications to be submitted 45 (rather than 60) days before the employer "date of need."	Y		
Reduce lead time for employer applications to 30 (rather than 60) days before "date of need."	Y		
Consistently meet 7 day deadline -- after initial receipt of employer's labor certification application -- to give written notification to the employer of deficiencies precluding adjudication of the application.	Y		
Consistently meet existing 20 day deadline -- prior to employer's date of need -- to issue approved certifications	Y		
After consolidation of certification and petition adjudication process in DOL, change the law to set deadline for DOL approval of employers' application to 7 days before date of need.	Y		
Reduce the deadline for employer-provided housing to be available for inspection to 15 (rather than 30) days before the date of need.	Y		
Change the current labor certification to one based on employers' attestations to comply with program requirements.	?	Unsure how this changes employer obligations.	

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-SEP-1998 09:05:36.00

SUBJECT:

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

TEXT:

Please call Sally at 62804 re; H2A Mtg.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-SEP-1998 09:16:22.00

SUBJECT:

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

READ:UNKNOWN

TEXT:

FYI- Myer Kuplow returned your call 212-403-1224

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-SEP-1998 09:45:04.00

SUBJECT: Civil Rights Enforcement Memo

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

READ:UNKNOWN

TEXT:

Elena, I sent you our draft memo on civil rights enforcement. Your comments would be appreciated.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-SEP-1998 09:54:10.00

SUBJECT: H2A meeting with Wyden

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

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

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

CC: Shannon Mason (CN=Shannon Mason/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:

I just spoke with Peter. He is setting up a meeting with Wyden's staff for this afternoon (Peter, Ceci and me). I will let you know when it is confirmed.

jf

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-SEP-1998 09:55:30.00

SUBJECT: Section 377

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:

Elena/Maria:

I received a call yesterday afternoon from William Gill, a staffer with Cong. Becerra/the Hispanic Caucus. He was calling to ask about late amnesty cases (Section 377). Cong. Becerra wants to know what options are available for relief for these folks and what steps we are taking to get there. I let him know that we are aware of the issue and are having discussions with the Department of Justice to understand more about the populations affected and the issues/options that we might have. This is likely the first of many calls on this from Becerra's office. I spoke to DOJ yesterday and let them know that we need to have their options paper ASAP in order for us to make an informed decision about what, if anything, we can do.

julie

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-SEP-1998 10:50:18.00

SUBJECT: Statement of Administration Policy on HR3248 Dollars to the Classroom Act-

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

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

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

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

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

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

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

TO: Robert M. Shireman (CN=Robert M. Shireman/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

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

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

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

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

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

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

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

TO: Justin D. Sullivan (CN=Justin D. Sullivan/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: 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: Elena Kagan (CN=Elena Kagan/OU=OPD/O=EOP@EOP [OPD])
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TO: Broderick Johnson (CN=Broderick Johnson/OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

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

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

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

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

TEXT:

Total Pages: _____

LRM ID: MNB226
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, September 11, 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: Statement of Administration Policy on HR3248 Dollars to
the Classroom Act

DEADLINE: 2 p.m. Friday, September 11, 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: This bill is scheduled to be considered by the House as early as Tuesday, September 15th.

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Elizabeth Gore
Brian S. Mason
Lisa Zweig
Robert G. Damus
Rosalyn J. Rettman
Justin D. Sullivan
Jennifer E. Brown
Mickey Ibarra
Janet R. Forsgren
James J. Jukes
Constance J. Bowers

LRM ID: MNB226 SUBJECT: Statement of Administration Policy on HR3248
Dollars to the Classroom Act

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

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

You may also respond by:

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

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

TO: 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

DRAFT -- NOT FOR RELEASE

September 15, 1998
(House)

H.R. 3248 -- Dollars to the Classroom Act
(Sponsors: Pitts (R), Pennsylvania and 107 others)

The Administration strongly opposes H.R. 3248, as reported by the Committee on Education and the Workforce. If the bill were presented to the President, his senior advisers would recommend that he veto it.

H.R. 3248 would convert a wide array of Federal education programs that address national priorities into a single, unfocused, block grant program providing general aid for education. The bill would eliminate programs that focus on our neediest children and schools, and on activities in which national leadership can play a critical role. For example, it would eliminate programs that help States and school districts raise educational standards and achievement for students, improve the quality of teaching, bring the benefits of technology to our Nation's students, and increase the availability of after-school programs.

Block grants would replace these worthy programs with general aid for school operations, which is the responsibility of States and communities. In doing so, it diverts attention from national priorities and the need to hold schools accountable for results.

* * * * *

(Do Not Distribute Outside Executive Office of the President)

This draft position was developed by LRD (Connie Bowers) in consultation with HRD (Cassell/White) and ED (Riddle). The Departments of Justice (Jones) and Interior (Cardinale), and OMB GC (Rettman), BRCD (Brown), OIRA

(Chenok), agree with or do not object to this position.

OMB/LA clearance:

BACKGROUND

Secretary Riley sent a letter to the House Education and Workforce Committee on June 24, 1998, stating that he would recommend that the President veto H.R. 3248 if it were presented to him. His letter noted that the President stated previously that he would "use his veto power to prevent this [block grant] approach from becoming law." The letter stated that the block grant approach in H.R. 3248 would replace the current emphasis on national priorities (e.g., focusing on the neediest children and schools) with general aid that would fail to provide focus and accountability for results. The Committee reported the bill by a vote of 19-18.

SUMMARY OF H.R. 3248

Title I -- Block Grant Provisions

Title I of H.R. 3248 would consolidate funding for 31 currently funded elementary and secondary education programs into a \$2.7 billion program of block grants to the States. The total FY 1998 appropriations for these programs is \$2.46 billion. It would also expand the Ed-Flex authority and the authority of schools to operate Elementary and Secondary Education Act Title I schoolwide programs. Title I of H.R. 3248 would:

Require that 95 percent of the funds be directed to school districts, which would use them for a variety of classroom activities;

Provide a 100 percent hold harmless for States and school districts for the formula grant programs to be consolidated, so that no State would experience a reduction in funds received;

Require that funds under the bill supplement, not supplant, existing State and local educational funds;

Require States to develop formulas for distributing funds to school districts in each State. In developing these formulas, States would be required to: (1) take into account children living in poverty and rural areas and children who have a higher than average cost to educate, and (3) ensure an equitable geographic distribution of funds;.

Require States to report annually on how funds have been used to improve student performance and to certify that 95 percent of funds have been spent on classroom activities and services;

Allow any ESEA Title I school to be designated as a schoolwide program.

Authorize the appropriation of \$2.74 billion for FY 1999 and a total of \$14.35 billion for Fiscal Years 1999-2003.

Title II -- Ed-Flex Provisions

Title II of H.R. 3248 would expand the existing Ed-Flex demonstration program to all 50 States. This would allow any State to waive certain Federal requirements in order to carry out State education reform

efforts.

PAY-AS-YOU-GO SCORING

According to HRD (Cassell) and BASD (), H.R. 3248 is not subject to the pay-as you-go (PAYGO) provisions of the Omnibus Budget Reconciliation Act of 1990.

LEGISLATIVE REFERENCE DIVISION DRAFT
September 11, 1998/10:45 a.m.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-SEP-1998 11:27:34.00

SUBJECT: Weekly Report 9/11

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

TEXT:

Chris may still do an assisted suicide piece by the end of the day=====

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D69]MAIL46366045C.226 to ASCII,
The following is a HEX DUMP:

FF575043BA0E0000010A02010000000205000000303E0000000200000858B93238E6EFD949CAFFE
B5860D464B7A518667AFD4E50E7FC5D93A011A5D5FC651C8BAB6D0F28853C13FB434BA5A9F5CF6

September 11, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

RE: DPC Weekly Report

Health Care -- Medicaid and the Patients' Bill of Rights: Next Thursday, you are currently scheduled to participate in a event in which you will announce the application of the patients' bill of rights to the Medicaid program. This action will underscore that you are doing all you can to extend patient protections to Federal health plans but will also highlight the need for Federal legislation to extend these protections to all Americans. Although we have not finalized plans for this event, it may be done in conjunction with Members of Congress who also support strong enforceable legislation. As of this writing, it appears that in the absence of significant pressure Senator Lott will not bring the patients' bill of rights up for a vote. Senator Daschle, however, is challenging Majority Leader on a nightly basis to schedule votes on this legislation.

Health Care -- Vice President's Health Care Event in New Hampshire: Next Friday, the Vice President is scheduled to join Governor Shaheen in a health care event to discuss a number of Administration health care priorities that have received great support in New Hampshire. At this event, the Vice President will highlight the approval of New Hampshire's new Children's Health Insurance Program, the application of the patients' bill of rights to Federal Employees Health Benefit plans, a new grant to New Hampshire for support services for disabled individuals going to work, and perhaps an initiative related to programs for older Americans. This series of multi-generational initiatives will be extremely well received by the Governor and the state.

Education -- Charter Schools Legislation: The Administration is continuing discussions with Senate staff to reach agreement to bring a charter school bill to the Senate floor. The bill was approved by full committee with bipartisan support last month, and is generally similar -- with a few important differences that would need to be resolved in conference -- to a bipartisan charter school bill approved by the House last year. The final obstacle to approval by the full Senate appears to be a demand from Senator Harkin permitting a small portion of the funds to support "innovative" non-charter schools, in states where charter schools are not permitted. Senate Republicans (and Senator Kennedy's office) oppose this provision because it undermines one purpose of the bill -- to provide incentives to states to enact charter schools legislation. We are attempting to broker a compromise, either by helping Senator Harkin find ways of directing funds to innovative schools outside the framework of charter schools legislation, or by including in the charter schools bill a small demonstration program to support

schools with most of the features of charter schools (i.e., a public school of choice with flexibility and a performance contract) but are located in a state without a charter school law. It is unclear whether either Harkin or the Republicans will accept this compromise.

Immigration --H-2A guestworkers: Last July the Senate passed an amendment to the CJS appropriations bill, sponsored by Senators Wyden and Graham, that would create a new agricultural guestworker (H-2A) program. Secretary Herman sent a letter to Senator Wyden strongly opposing his amendment because it would severely weaken the labor protections for migrant farmworkers. However, in an attempt to address the concerns raised by growers but also protect the interests of farmworkers, we have committed to engaging in a bi-partisan working group with members of Congress on the issue of H-2A reform. Despite our expressed desire to approach this reform in a careful, bi-partisan fashion, Senator Wyden has continued to press us to work with him directly to improve his bill. We are meeting with Senator Wyden this week to discuss our substantive and procedural concerns with his approach (including trying to do this reform as a last-minute amendment to an appropriations bill). However, our goal is to get his amendment stripped from the CJS bill and to do the real work of forging a consensus reform solution in the context of the bi-partisan group. This group will likely include Senators Wyden, Graham, Kennedy, Feinstein, Abraham and Coverdell and Representatives Lamar Smith, Bishop, Becerra, Watt and Berman.

Welfare Reform -- Caseloads Continue to Decline: Last week, USA Today published a misleading story saying the decline in welfare rolls is slowing. In fact, the rate of decline is continuing to hold steady nationally, at about 2% per month and about 20% per year. The actual number of people leaving the rolls is smaller but -- because the rolls are smaller -- the rate of decline has stayed the same. For example, the rolls declined by 6 percent between March-June of 1997 and by 6 percent between March-June of 1998 (the article compared the two periods and claimed the national decline had slowed by 20%). However, the article correctly pointed out that caseloads in selected states such as Wisconsin, Idaho and Wyoming, which have experienced declines of more than 80% since 1993, are leveling off.

Welfare Reform -- GAO Report on TANF Surplus: At Congressman Shaw's request, GAO did a report on how states are using their federal and state welfare reform funds. The study confirms the general trend that HHS described in their recent report to Congress on TANF -- that with major caseload declines, many states are spending more per person and investing in services to help people get and keep jobs. Because of caseload declines, the fixed level of federal funding for TANF block grants, and the required level of state maintenance of effort, GAO estimates that there was \$4.7 billion more in combined federal and state resources available for 1997 than there would have been under the old welfare system for the same period. On average, this equates to a 25 percent increase in funding although there is significant state variation. Funding was higher for 46 states, ranging from one percent in Alaska and Connecticut to 102 percent in Wyoming.

GAO found that a number of states significantly reduced state funding on welfare programs, but at least 22 states must still invest more per recipient than they did in 1996 in order to meet the law's maintenance of effort. For example, Michigan reduced its welfare spending by \$42 million, but must increase spending per recipient by about 22 percent just to meet the maintenance of effort requirement. GAO found many encouraging examples of states investing in work-related supports including child care, training, and transportation. While many state officials have adopted the strategy of invest now in helping move the maximum number of people in to the workforce, others have set up rainy day funds to prepare for future changes in the economy. These federal TANF funds remain in the U.S. treasury until they are expended. In the news articles commenting on the GAO report, governors expressed concerns that Congress may be tempted to raid these unspent balances.

Tobacco -- Study on Smokers' Quitting Rates: A study published in the September 3rd New England Journal of Medicine found that smokers were four times more likely to quit if their health insurance plan paid the full cost of smoking cessation services, rather than paying just half. The researchers found that with full coverage, 10 percent of smokers per year use cessation services and 2.8 percent successfully quit smoking, compared to 2.4 percent usage and 0.7 percent quit rates if insurance paid only half the cost. The study involved 90,000 enrollees in the Puget Sound health maintenance organization. In preparation for your FY 2000 budget, we are examining ways to make cessation services more affordable within the Defense, Veterans, Medicaid, Medicare, and federal employees health systems. We believe the proposals to help current smokers quit could be coupled with your continued call for comprehensive legislation to stop children from smoking before they start.

Children and Families -- Child Care Appropriations: The Senate Labor-HHS Education Committee appropriated \$182 million in new funding for the Child Care and Dependent Block Grant. This is the amount that we requested in new discretionary funding as part of your child care proposal. In your proposal, this appropriation paid for a fund for states to enforce quality standards, a research and evaluation fund, and scholarships for child care providers. The Committee, however, did not specifically fund those programs.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-SEP-1998 11:56:34.00

SUBJECT:

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

READ:UNKNOWN

TEXT:

Maria wants to talk to you 66594

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-SEP-1998 13:55:30.00

SUBJECT: Pls look at this today re: EPA tobacco appeal

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

EPA tells me the Solicitor General's office is ready to file its appeal in the EPA Environmental Tobacco Smoke case. EPA wants to know if we want to do anything with it. If not they might want to work it into a speech Browner is giving tomorrow. Looking at the schedules I think our options are:

1) Browner announce tomorrow (or later)

2) VP announce (in person or on paper). Eli Attie says all his speeches Monday in NYC are political, Tuesday he's down, Wednesday's a state visit... but something could be possible. I'm trying to reach David Beier to see if he likes it.

3) POTUS paper statement.

I think the announcement of the appeal would be much better if we could couple it with the announcement of EPA's ETS public service announcements. They aren't quite ready yet, but EPA is checking to see if there's a prototype or something that could be shown during the announcement.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-SEP-1998 14:59:04.00

SUBJECT: School desegregation

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

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

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

TO: Edley (Edley @ law.harvard.edu @ inet [UNKNOWN])
READ:UNKNOWN

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

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

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

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

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

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

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

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

TEXT:

You are invited to a discussion of approaches to school desegregation with representatives of DOJ, ED and HUD on Friday, 9/18, 1:00-2:30, in 472 OEOB. We will talk about the recent Indianapolis and St. Louis cases, magnet schools, HUD's role (if any), and the state of school integration generally. If you would like to attend and this time doesn't work, please call me or ask your scheduler to call Alissa Brown, 62615.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-SEP-1998 15:16:26.00

SUBJECT: H1B -- update

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Elena,

I just heard from Ingrid and Peter that the H1B Abraham/Smith compromise bill is scheduled to go to the House and Senate floor next week. According to Peter, Abraham may have altered this proposal to include some of the changes that we had suggested. Peter is trying to schedule a meeting on the Hill with Abraham's staff this afternoon to discuss this in detail.

julie

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Tania I. Lopez (CN=Tania I. Lopez/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:11-SEP-1998 16:44:48.00

SUBJECT: White House response to the Starr report

TO: Francess Page (Francess Page @ inet [UNKNOWN])

READ:UNKNOWN

TO: Victoria Sneed (Victoria Sneed @ inet [UNKNOWN])

READ:UNKNOWN

TO: Andrea Johnston (Andrea Johnston @ inet [UNKNOWN])

READ:UNKNOWN

TO: Thomas Kring (Thomas Kring @ inet [UNKNOWN])

READ:UNKNOWN

TO: Cindy Brown (Cindy Brown @ inet [UNKNOWN])

READ:UNKNOWN

TO: Yeni Wong (Yeni Wong @ inet [UNKNOWN])

READ:UNKNOWN

TO: Paula Kagan (Paula Kagan @ inet [UNKNOWN])

READ:UNKNOWN

TO: Henry Gabelnick (Henry Gabelnick @ inet [UNKNOWN])

READ:UNKNOWN

TO: Hedy Ratner (Hedy Ratner @ inet [UNKNOWN])

READ:UNKNOWN

TO: Dee Riley (Dee Riley @ inet [UNKNOWN])

READ:UNKNOWN

TO: Marie Wilson (Marie Wilson @ inet [UNKNOWN])

READ:UNKNOWN

TO: Suzanne Stokes (Suzanne Stokes @ inet [UNKNOWN])

READ:UNKNOWN

TO: Vicki Saporta (Vicki Saporta @ inet [UNKNOWN])

READ:UNKNOWN

TO: Irene Natividad (Irene Natividad @ inet [UNKNOWN])

READ:UNKNOWN

TO: Amy Langer (Amy Langer @ inet [UNKNOWN])

READ:UNKNOWN

TO: Terri Dickerson (Terri Dickerson @ inet [UNKNOWN])

READ:UNKNOWN

TO: Ellen Bravo (Ellen Bravo @ inet [UNKNOWN])

READ:UNKNOWN

TO: Pat Reuss (Pat Reuss @ inet [UNKNOWN])

READ:UNKNOWN

TO: Anita Perez Ferguson (Anita Perez Ferguson @ inet [UNKNOWN])
READ:UNKNOWN

TO: Gloria Johnson (Gloria Johnson @ inet [UNKNOWN])
READ:UNKNOWN

TO: Lisa Kaeser (Lisa Kaeser @ inet [UNKNOWN])
READ:UNKNOWN

TO: Janet Benshoof (Janet Benshoof @ inet [UNKNOWN])
READ:UNKNOWN

TO: Susan Cohen (Susan Cohen @ inet [UNKNOWN])
READ:UNKNOWN

TO: Alysia Snell (Alysia Snell @ inet [UNKNOWN])
READ:UNKNOWN

TO: Stephanie Reed (Stephanie Reed @ inet [UNKNOWN])
READ:UNKNOWN

TO: Rod Lew (Rod Lew @ inet [UNKNOWN])
READ:UNKNOWN

TO: Amanda Sullivan (Amanda Sullivan @ inet [UNKNOWN])
READ:UNKNOWN

TO: Kate Michelman (Kate Michelman @ inet [UNKNOWN])
READ:UNKNOWN

TO: Linda Gordon (Linda Gordon @ inet [UNKNOWN])
READ:UNKNOWN

TO: Adrienne Germain (Adrienne Germain @ inet [UNKNOWN])
READ:UNKNOWN

TO: J. Benjamin Younger (J. Benjamin Younger @ inet [UNKNOWN])
READ:UNKNOWN

TO: Darryl Figueroa (Darryl Figueroa @ inet [UNKNOWN])
READ:UNKNOWN

TO: Maureen Britell (Maureen Britell @ inet [UNKNOWN])
READ:UNKNOWN

TO: Christopher Turman (Christopher Turman @ inet [UNKNOWN])
READ:UNKNOWN

TO: Ellie Smeal (Ellie Smeal @ inet [UNKNOWN])
READ:UNKNOWN

TO: Susan Bianchi-Sands (Susan Bianchi-Sands @ inet [UNKNOWN])
READ:UNKNOWN

TO: Lina Fresca Dobbs (Lina Fresca Dobbs @ inet [UNKNOWN])
READ:UNKNOWN

TO: Cynthia Gady (Cynthia Gady @ inet [UNKNOWN])

READ:UNKNOWN

TO: Rubie Coles (Rubie Coles @ inet [UNKNOWN])

READ:UNKNOWN

TO: The Rev. Carleton Veazey (The Rev. Carleton Veazey @ inet [UNKNOWN])

READ:UNKNOWN

TO: Martha Davis (Martha Davis @ inet [UNKNOWN])

READ:UNKNOWN

TO: Gloria Feldt (Gloria Feldt @ inet [UNKNOWN])

READ:UNKNOWN

TO: Frances Kissling (Frances Kissling @ inet [UNKNOWN])

READ:UNKNOWN

TO: Rachel Gold (Rachel Gold @ inet [UNKNOWN])

READ:UNKNOWN

TO: Cindy Cooper (Cindy Cooper @ inet [UNKNOWN])

READ:UNKNOWN

TO: LaurieRobinson (Laurie Robinson @ inet [UNKNOWN])

READ:UNKNOWN

TEXT:

Below is the Executive Summary of the White House Rebuttal Statement. The complete response is available on our website: www.whitehouse.gov. The document is 77 pages, therefore I did not want to e-mail it to you. If you are unable to access it and would like a copy e-mailed, just let me know.

EXECUTIVE SUMMARY

Summary of Key Points of the President's Case in Anticipation of the Starr Report

1. The President has acknowledged a serious mistake - an inappropriate relationship with Monica Lewinsky. He has taken responsibility for his actions, and he has apologized to the country, to his friends, leaders of his party, the cabinet and most importantly, his family.

1. This private mistake does not amount to an impeachable action. A relationship outside one's marriage is wrong - and the President admits that. It is not a high crime or misdemeanor. The Constitution specifically states that Congress shall impeach only for "treason, bribery or other high crimes and misdemeanors." These words in the Constitution were chosen with great care, and after extensive deliberations.

2. "High crimes and misdemeanors" had a fixed meaning to the Framers of our Constitution. It meant wrongs committed against our system of government. The impeachment clause was designed to protect our country against a President who was using his official powers against the nation, against the American people, against our society. It was never designed

to allow a political body to force a President from office for a very personal mistake.

3. Remember - this report is based entirely on allegations obtained by a grand jury - reams and reams of allegations and purported "evidence" that would never be admitted in court, that has never been seen by the President or his lawyers, and that was not subject to cross-examination or any other traditional safeguards to ensure its credibility.

4. Grand juries are not designed to search for truth. They do not and are not intended to ensure credibility, reliability, or simple fairness. They only exist to accuse. Yet this is the process that the Independent Counsel has chosen to provide the "evidence" to write his report.

5. The law defines perjury very clearly. Perjury requires proof that an individual knowingly made a false statement while under oath. Answers to questions that are literally true are not perjury. Even if an answer doesn't directly answer the question asked, it is not perjury if it is true - no accused has an obligation to help his accuser. Answers to fundamentally ambiguous questions also can never be perjury. And nobody can be convicted of perjury based on only one other person's testimony.

6. The President did not commit perjury. Most of the illegal leaks suggesting his testimony was perjurious falsely describe his testimony. First of all, the President never testified in the Jones deposition that he was not alone with Ms. Lewinsky. The President never testified that his relationship with Ms. Lewinsky was the same as with any other intern. To the contrary, he admitted exchanging gifts with her, knowing about her job search, receiving cards and notes from her, and knowing other details of her personal life that made it plain he had a special relationship with her.

7. The President has admitted he had an improper sexual relationship with Ms. Lewinsky. In a civil deposition, he gave narrow answers to ambiguous questions. As a matter of law, those answers could not give rise to a criminal charge of perjury. In the face of the President's admission of his relationship, the disclosure of lurid and salacious allegations can only be intended to humiliate the President and force him from office.

8. There was no obstruction of justice. We believe Betty Currie testified that Ms. Lewinsky asked her to hold the gifts and that the President never talked to her about the gifts. The President admitted giving and receiving gifts from Ms. Lewinsky when he was asked about it. The President never asked Ms. Lewinsky to get rid of the gifts and he never asked Ms. Currie to get them. We believe that Ms. Currie's testimony supports the President's.

9. The President never tried to get Ms. Lewinsky a job after she left the White House in order to influence her testimony in the Paula Jones case. The President knew Ms. Lewinsky was unhappy in her Pentagon job after she left the White House and did ask the White House personnel office to treat her fairly in her job search. He never instructed anyone to hire her, or even indicated that he very much wanted it to happen. Ms. Lewinsky was never offered a job at the White House after she left - and it's pretty apparent that if the President had ordered it, she would have been.

10. The President did not facilitate Ms. Lewinsky's interview with Bill Richardson, or her discussions with Vernon Jordan. Betty Currie asked John Podesta if he could help her with her New York job search which led to an interview with Bill Richardson, and Ms. Currie also put her in touch

with her longtime friend, Mr. Jordan. Mr. Jordan has made it clear that this is the case, and, as a private individual, he is free to offer job advice wherever he sees fit.

11. There was no witness tampering. Betty Currie was not supposed to be a witness in the Paula Jones case. If she was not called or going to be called, it was impossible for any conversations the President had with her to be witness tampering. The President testified that he did not in any way attempt to influence her recollection.

12. There is no "talking points" smoking gun. Numerous illegal leaks painted the mysterious talking points as the proof that the President or his staff attempted to suborn the perjury of Monica Lewinsky or Linda Tripp. The OIC's spokesman said that the "talking points" were the "key" to Starr even being granted authority to investigate the President's private life. Yet in the end, Ms. Lewinsky has apparently admitted the talking points were written by her alone [or with Ms. Tripp's assistance], and the President was not asked one single question about them in his grand jury appearance.

13. Invocation of privileges was not an abuse of power. The President's lawful assertion of privileges in a court of law was only made on the advice of his Counsel, and was in significant measure validated by the courts. The legal claims were advanced sparingly and as a last resort after all attempts at compromise by the White House Counsel's office were rejected to protect the core constitutional and institutional interests of this and future presidencies.

14. Neither the President nor the White House played a role in the Secret Service's lawful efforts to prevent agents from testifying to preserve its protective function. The President never asked, directed or participated in any decision regarding the protective function privilege. Neither did any White House official. The Treasury and Justice Departments independently decided to respond to the historically unprecedented subpoenas of Secret Service personnel and to pursue the privilege to ensure the protection of this and future presidents.

15. The President did not abuse his power by permitting White House staff to comment on the investigation. The President has acknowledged misleading his family, staff and the country about the nature of his relationship with Ms. Lewinsky, and he has apologized and asked for forgiveness. However, this personal failing does not constitute a criminal abuse of power. If allowing aides to repeat misleading statements is a crime, then any number of public officials are guilty of misusing their office for as long as they fail to admit wrong doing in response to any allegation about their activities.

16. The actions of White House attorneys were completely lawful. The White House Counsel attorneys provided the President and White House officials with informed, candid advice on issues raised during this investigation that affected the President's official duties. This was especially necessary given the fact that impeachment proceedings against the President were a possible result of the OIC's investigation from Day One. In fact, throughout the investigation, the OIC relied on the White House Counsel's office for assistance in gathering information and arranging interviews and grand jury appearances. The Counsel's office's actions were well known to the OIC throughout the investigation and no objection was ever voiced.

This means that the OIC report is left with nothing but the details of a private sexual relationship, told in graphic details with the intent to embarrass. Given the flimsy and unsubstantiated basis for the accusations, there is a complete lack of any credible evidence to initiate an impeachment inquiry concerning the President. And the principal purpose of this investigation, and the OIC's report, is to embarrass the President and titillate the public by producing a document that is little more than an unreliable, one-sided account of sexual behavior.

Where's Whitewater? The OIC's allegations reportedly include no suggestion of wrongdoing by the President in any of the areas which Mr. Starr spend four years investigating: Whitewater, the FBI files and the White House travel office. What began as an inquiry into a 24 year old land deal in Arkansas has ended as an inquest into brief, improper personal encounters between the President and Monica Lewinsky. Despite the exhaustive nature of the OIC's investigation into the Whitewater, FBI files and travel office matters, and a constant stream of suggestions of misconduct in the media over a period of years, to this day the OIC has never exonerated the President or the First Lady of wrongdoing.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cecilia E. Rouse (CN=Cecilia E. Rouse/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:11-SEP-1998 19:52:52.00

SUBJECT: H-1B

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

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

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

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

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

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

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

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

TEXT:

According to Peter Jacoby Larry Stein will be calling to set up a conference call this weekend to discuss our strategy regarding H-1B. Today's Congress Daily reported that the Republicans plan to offer the Abraham/Smith proposal on the House floor next week with a few modifications that move in our direction (including a larger training fee and a provision against unconscionable contracts and "benching"). At the same time, Lee Otis from Abraham's staff contacted Peter J. with a (small) counter-offer in an effort to continue our discussions. We clearly need to decide our strategy over the next week.

Attached is our list of the 15 changes we wanted to see in the Abraham/Smith proposal. During the call Peter J and I will discuss which changes Abraham's staff have (tentatively) agreed to and their current offer.

-- Ceci

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D30]MAIL46993545K.226 to ASCII,
The following is a HEX DUMP:

FF575043B0040000010A02010000000205000000BE19000000020000CC71536DA5CD6479D3683B

July 30, 1998

Proposed Administration Revisions to H.R. 3736 (the July 29, 1998 version):

1. Require either a \$500 fee for each position for which an application is filed or a \$1,000 fee for each nonimmigrant. Fee to fund training provided under JTPA Title IV. In addition, a small portion of these revenues should fund the administration of the H-1B visa program, including the cost of arbitration.
2. Define H-1B-dependent employers as:
 - a. For employers with fewer than 51 workers, that at least 20% of their workforce is H-1B; and
 - b. For employers with more than 50 workers, that at least 10% of their workforce is H-1B.
3. The recruitment and no lay-off attestations apply to: (1) H-1B dependent employers; and (2) any employer who, within the previous 5 years, has been found to have willfully violated its obligations under this law.
4. H-1B dependent employers attest they will not place an H-1B worker with another employer, under certain employment circumstances, where the other employer has displaced or intends to displace a U.S. worker (as defined in paragraph (4)) during the period beginning 90 days before and ending 90 days after the date the placement would begin.
5. DOL would have the authority to investigate compliance either: (1) pursuant to a complaint by an aggrieved party; or (2) based on other credible evidence indicating possible violations.
6. Establish an arbitration process for disputes involving the laying-off of any U.S. worker who was replaced by an H-1B worker, even of a non-H-1B dependent employer. This arbitration process would be largely similar to that laid out in H.R. 3736 except that it would be administered by the Secretary of Labor. The arbitrator must base his or her decision on a "preponderance of the evidence."
7. Reference in the bill to "administrative remedies" includes the authority to require back pay, the hiring of an individual, or reinstatement.
8. There must be appropriate sanctions for violations of "whistleblower" protections.
9. Close loopholes in the attestations:
 - a. Strike the provision that "[n]othing in the [recruitment attestation] shall be construed to prohibit an employer from using selection standards normal or

customary to the type of job involved.”

- b. Clarify that job contractors can be sanctioned for placing an H-1B worker with an employer who subsequently lays off a U.S. worker within the 90 days following placement.
 - c. Do not exempt H-1B workers with at least a master’s degree or the equivalent from calculations of the total number of H-1B employees.
 - d. Define lay-off based on termination for “cause or voluntary termination,” but exclude cases where there has been an offer of continuing employment.
- 10. Consolidate the LCA approval and petition processes within DOL, rather than within INS.
 - 11. Broaden the definition of U.S. workers to include aliens authorized to be employed by this act or by the Attorney General.
 - 12. Include a provision that prohibits unconscionable contracts.
 - 13. Include a “no benching” requirement that an H-1B nonimmigrant in “non-productive status” for reasons such as training, lack of license, lack of assigned work, or other such reason (not including when the employee is unavailable for work) be paid for a 40 hour week or a prorated portion of a 40 hour week during such time.
 - 14. Increase the annual cap on H-1B visas to 95,000 in FY 1998, 105,000 in FY 1999, and 115,000 in FY 2000. After FY 2000, the visa cap shall return to 65,000.
 - 15. Eliminate the 7500 cap on the number of non-physician health care workers admitted under the H-1B program to make the bill consistent with our obligations under the GATS agreement.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-SEP-1998 20:01:22.00

SUBJECT: H2A Deputy's Meeting -- MONDAY AT 2PM

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

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

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

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

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

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

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

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

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

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

CC: Francine P. Obermiller (CN=Francine P. Obermiller/OU=CEA/O=EOP @ EOP [CEA])
READ:UNKNOWN

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

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

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

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

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

READ:UNKNOWN

TEXT:

There will be a Deputy's meeting on Monday, September 14th at 2:00pm in Room 211 re: reform to the H2A agricultural guestworker program. I hope to see you there.

Outside Participants

Richard Rominger -- USDA

Kitty Higgins -- DOL

James Castello -- DOJ

Robert Bach -- INS

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-SEP-1998 20:50:10.00

SUBJECT: Stein/Sperling H1B Conference Call on Saturday at 2pm, 757-2104, code: 910

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

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

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

TO: RON (SKY) (Pager) #KLAIN (RON (SKY) (Pager) #KLAIN [UNKNOWN])
READ:UNKNOWN

TO: JULIE (Pager) #FERNANDES (JULIE (Pager) #FERNANDES [UNKNOWN])
READ:UNKNOWN

TO: SALLY (Pager) #KATZEN (SALLY (Pager) #KATZEN [UNKNOWN])
READ:UNKNOWN

TO: CECILIA (Pager) #ROUSE (CECILIA (Pager) #ROUSE [UNKNOWN])
READ:UNKNOWN

TO: PETER (Pager) #JACOBY (PETER (Pager) #JACOBY [UNKNOWN])
READ:UNKNOWN

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

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

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

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

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

TEXT:

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-SEP-1998 08:06:34.00

SUBJECT: assisted suicide

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:

As promised, here is your assisted suicide update. I know it is a bit too long, but I thought you might want the information contained in it to give the POTUS a good sense of the status of this bill on the Hill, the complications of this issue and our response to it.

Hope you find it to be helpful. Call or page with questions.

cj

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D75]MAIL421675459.226 to ASCII,

The following is a HEX DUMP:

FF575043FE040000010A02010000000205000000DA16000000020000A7886126B5F333187D7D53
345F1DF05FF2238644A31CA1D90922F4E949561A0789ECF93559D2CBF7518A2F0825979964C5A4

Assisted Suicide Update. The House and Senate are scheduled to take action on the Lethal Drug Abuse Prevention Act (H.R. 4006/S. 2151) next week. Speaker Gingrich has announced his intention to bring H.R. 4006 for a vote before the House and Senator Hatch has scheduled a mark-up of S. 2151 in his Judiciary Committee for next Thursday.

As you will recall, the Lethal Drug Abuse Prevention Act would empower the Drug Enforcement Agency to prosecute physicians who inappropriately used pain control medications to assist in a suicide of a patient. While we have consistently underscored your opposition to and abhorrence of assisted suicide, we have opposed this legislation because we felt it was an inappropriate and ill-advised use of DEA's limited resources and because, like AMA and a host of other national health care organizations (who also oppose assisted suicide), we fear the intimidating effect it would have on the willingness of physicians to appropriately prescribe already underutilized pain relieving medications for the terminally ill.

Despite our opposition to H.R. 4006, it appears that Speaker Gingrich has a sufficient number of votes to pass this legislation through the House. Having said this, the provider and hospice communities' compelling argument of this bill's negative impact on palliative care is apparently starting to have an impact. We will be sending up a Statement of Administration Policy on Monday to reiterate our opposition to the current draft of H.R. 4006 and to restate our commitment to working with the Congress to develop an approach that more effectively deals with this complex and controversial issue.

On the Senate side, Senator Hatch has been insisting that the Administration reconcile our position against assisted suicide with our opposition to S. 2151, the Lethal Drug Abuse Prevention Act. In an attempt to box in our position, he requested that we submit an alternative approach that you could support. He is now insisting that we forward a formal response to him prior to his scheduled mark-up of S. 2151 next week.

Because of myriad of health and federalism controversies surrounding this issue and the limited time left in this Congressional session, it is virtually impossible to imagine producing any workable legislation that would satisfy Senators' Nickles and Hatch without severely impacting on palliative care for the terminally ill. Doing so would also seriously strain our relationships with almost every respected member of the health provider and consumer community and, of course, the entire Oregonian delegation, particularly Senator Wyden.

We do believe, however, that we need to respond to Senator Hatch's request. To accomplish this, we recommend forwarding a letter from Justice that more explicitly illustrates our commitment to work collaboratively on this issue. It would combine a reiteration of your strong opposition to assisted suicide with a specific commitment to work with the Congress to establish (either by statute or through a new executive action) a new advisory board to develop consensus guidelines on the appropriate use of controlled substances for terminally ill patients. Such guidelines would be designed to be sufficiently clear that a physician who followed them

would be free of any fear of sanctions. This board could also provide recommendations on the most appropriate enforcement entity, as well as the authority and responsibility such an entity would have. It would have representatives of doctors, nurses, consumers, ethicists, law enforcement officials and others, and it would have a mutually agreed to timeframe (say 90 days) for reporting back to the Congress and the Administration.

We believe the health, hospice, and consumer communities' arguments against S. 2151 will have a more significant impact on both the Judiciary Committee and the full Senate. As of this writing, we are fairly confident that the Senate will be unable to pass legislation in this area, primarily because of the limited time left in this session, Senator Wyden's strong opposition to it and his commitment to use delay tactics on the Senate floor, and a growing concern about the unintended consequences of passing this legislation in the Senate. We will keep you apprised of developments.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-SEP-1998 17:16:59.00

SUBJECT: School Safety Satellite Program

TO: gregory.king (gregory.king @ usdoj.gov [UNKNOWN])
READ:UNKNOWN

TO: Shay.Bilchik (Shay.Bilchik @ usdoj.gov @ inet [UNKNOWN])
READ:UNKNOWN

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

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

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

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

TO: Ansley Jones (CN=Ansley Jones/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

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

READ:UNKNOWN

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

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

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

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

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

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

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

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

TO: Charles.a.simon (Charles.a.simon @ usdoj.gov @ inet [UNKNOWN])
READ:UNKNOWN

TO: Ricki.l.seidman (Ricki.l.seidman @ usdoj.gov @ inet [UNKNOWN])
READ:UNKNOWN

TO: Ann_O'Leary (Ann_O'Leary @ ed.gov @ inet [UNKNOWN])
READ:UNKNOWN

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

TO: lisa.wetzl (lisa.wetzl @ mail.va.gov [UNKNOWN])
READ:UNKNOWN

TO: Kelley L. O'Dell (CN=Kelley L. O'Dell/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

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

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

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

READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TEXT:

We will hold a meeting on the School Safety Conference Satellite broadcast program on Tuesday, September 15th at 2:30. Room 211OEOB.

This meeting will focus on the satellite broadcasts only.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:13-SEP-1998 15:16:18.00

SUBJECT: Country of Origin and food safety

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

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

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

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

TEXT:

Attached is a note on the status of food labeling.

In addition, I have given some more thought to the question Elena raised last week -- what should be our new program for food safety? For the past year we have emphasized the need for greater resources (the \$101 million Initiative) and an improved organization of agencies (the Research Institute and the Food Safety Council). Perhaps the next emphasis should be put on improving standards and enforcement. The elements to this could be, but not limited to, a.) trying to get states to adopt our food safety code; b). pushing for USDA to be given recall authority for tainted food; and c.) some more food specific regulations (similar to juice) which we could explain is part of this yearlong effort. The idea would be that we would line up this third element of standards as the key part of the upcoming year, even as we move ahead on making sure we get sufficient resources and make sure the Council works. It would likely not be a significant cost in the budget. I plan on going ahead and sitting down with agency folks and pushing this idea and see what new major things they could add to such a standards package. I think it might be the germ of a good idea.

Country of origin labeling.

1. Recent events. Last week Secretary Glickman met with Senators Johnson, Craig, Burns, Baucus, and Dorgan (as well as staff from other offices, including Senator Daschle) to discuss the country of origin labeling amendment to the Ag Approps bill. In the meeting, Secretary Glickman made it clear that he was not present to give the Administration's position or support for the amendment but rather to provide technical assistance relative to concerns raised by the amendment. He also indicated that other agencies, such as USTR, DPC, OMB, State, FDA and Customs must be consulted on this issue.

2. What the Amendment does. The amendment as adopted would only apply to beef and lamb (not pork or poultry) and would require "imported" labeling rather than individual country of origin labeling, which is a legal problem relative to our trade agreements (and one of the areas in which the Senate will change). It would apply to muscle cuts as well as ground and processed products. The amendment would not allow cattle that are shipped into the

U.S. in sealed trucks for slaughter to bear the U.S. label (which is allowed under current law). On the other hand, cattle that were fed at a U.S. feedyard for 1 week, for example, would be labeled U.S.

USDA also raised issues about providing for civil penalties for violations of the country of origin requirements if enacted. Currently, USDA can only impose criminal penalties (and the Admin. is seeking broader civil penalty authority via the Harkin bill). USDA also raised issues about providing USDA the authority to traceback product and expressed concerns that we did not want to divert resources from food safety to implement and enforce this amendment. (informal agency estimates of about \$6.5 million for a study as well as rulemaking and enforcement)

An additional issue that was not raised in the meeting has to do with the timing of the amendment. As drafted, there are several different timeframes, with 4 months being the tightest, for promulgating rules. USDA intends to communicate to staff about the need for realistic timeframes for rulemaking.

3. Future in conference. It is unclear what will occur on this issue during conference. Ways and Means Chairman Archer has objected to this amendment (as well as the fruit and vegetable country of origin amendment), and Senate Ag Chair Lugar and House Ag. Chair Smith have also objected. Industry is strongly opposed, but the National Cattlemen's Beef Association, National Farmers Union, and American Farm Bureau Federation strongly support country of origin labeling but do not view this as a high priority issue (they would support the traceback authority).

The bipartisan group of Senators with whom Secretary Glickman met indicated that they would fight strongly to include the amendment and also expressed interest in working to address some of the concerns about the amendment.