

NLWJC - KAGAN

EMAILS RECEIVED

ARMS - BOX 093 - FOLDER -007

[04/15/1999-04/16/1999]

Withdrawal/Redaction Sheet

Clinton Library

| DOCUMENT NO. AND TYPE | SUBJECT/TITLE | DATE | RESTRICTION |
|--------------------------|---|------------|-------------|
| 001. email | Dan Marcus to Elena Kagan, et al, re: ESEA - anti-smoking programs (partial) (1 page) | 04/15/1999 | P6/b(6) |
| 002. email | Phone No. (Partial) (1 page) | 04/16/1999 | P6/b(6) |

COLLECTION:

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

FOLDER TITLE:

[04/15/1999-04/16/1999]

2009-1006-F

bm108

RESTRICTION CODES

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

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

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

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

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

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

RR. Document will be reviewed upon request.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:15-APR-1999 09:41:46.00

SUBJECT:

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

READ:UNKNOWN

TEXT:

Reminder: the race book rollout mtg. starts at 9:45 in 252 OEOB

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Caroline R. Fredrickson (CN=Caroline R. Fredrickson/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:15-APR-1999 09:41:58.00

SUBJECT: McDade

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

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

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

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

TEXT:

I'm sending you a copy of a bill and summary that Leahy wants to drop soon. Let me know what you think.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Caroline R. Fredrickson (CN=Caroline R. Fredrickson/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:15-APR-1999 09:44:09.00

SUBJECT: H2A

TO: Irene Bueno (CN=Irene Bueno/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

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

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

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

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

TEXT:

I'm sending you a copy of a memo drafted by Rick Swartz and circulated to a variety of groups attempting to set out compromise positions on the issue. I'm afraid the issue does not seem to be dead after all.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:15-APR-1999 10:44:49.00

SUBJECT: child care program/usda

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

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

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

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

TEXT:

fyi --

----- Forwarded by Jennifer M. Palmieri/WHO/EOP on
04/15/99 10:44 AM -----

Beverly J. Barnes
04/15/99 08:20:30 AM

Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: child care program/usda

the nbc news story referenced below is likely to air anytime tonight or
after, depending on space/time. bb

----- Forwarded by Beverly J. Barnes/WHO/EOP on 04/15/99
08:17 AM -----

Laura.Trivers@usda.gov
04/14/99 03:48:00 PM

Record Type: Record

To: Beverly J. Barnes@eop
cc:
Subject: child care program/usda

Beverly, NBC News is working on a story on our Child and Adult Care Feeding Program. Our Inspector General uncovered some problems with how the program is administered in some states. The IG was interviewed on camera. Since we accept his report and are implementing all the recommendations, we thought it best for the Under Secretary to simply provide this statement to NBC. It

should make good talking points if you need them. If you need anything else,
please let me know. Laura Trivers 720-4623

Message Sent

To:

Barry J. Toiv/WHO/EOP@EOP
Richard L. Siewert/WHO/EOP@EOP
Nanda Chitre/WHO/EOP@EOP
Julia M. Payne/WHO/EOP@EOP
Jason H. Schechter/WHO/EOP@EOP
Jennifer M. Palmieri/WHO/EOP@EOP
Heather M. Riley/WHO/EOP@EOP
Erica S. Lepping/WHO/EOP@EOP
Brenda M. Anders/WHO/EOP@EOP
Julianne B. Corbett/WHO/EOP@EOP
Sarah E. Gegenheimer/WHO/EOP@EOP
Julie B. Goldberg/WHO/EOP@EOP
Susanna B. McGuire/WHO/EOP@EOP
Megan C. Moloney/WHO/EOP@EOP
Mark D. Neschis/WHO/EOP@EOP
Elizabeth R. Newman/WHO/EOP@EOP
Victoria L. Valentine/WHO/EOP@EOP
Dag Vega/WHO/EOP@EOP
Mark A. Kitchens/WHO/EOP@EOP

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D22]ARMS14359102N.136 to ASCII,
The following is a HEX DUMP:

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FF575043BF040000010A02010000000205000000D009000000020000364D98B9618A12516C953C  
B9067B5AD964C8277738268A023CDBCCD627FE529F6EB6806DF904F6756884BE949C34BF98E246  
52342EDC90F2892D947F3A429CDBCE7FC1752A6640BCAAA5FEF589A5FC7A007D6AE577738200A0
```

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

TEXT:

RFC-822-headers:

Received: from conversion.pmdf.eop.gov by PMDF.EOP.GOV (PMDF V5.1-9 #29131)
id <01JA16ZBER8W001AJ5@PMDF.EOP.GOV> for barnes_bj@a1.eop.gov; Wed,
14 Apr 1999 18:20:49 EST

Received: from storm.eop.gov by PMDF.EOP.GOV (PMDF V5.1-9 #29131)
with ESMTTP id <01JA16Z6P5XC000T61@PMDF.EOP.GOV> for barnes_bj@a1.eop.gov; Wed,

14 Apr 1999 18:20:40 -0500 (EST)

Received: from hqmail.usda.gov ([199.128.3.90])
by EOP.GOV (PMDF V5.2-29 #34437) with ESMTTP id <01JA16YHZFDO000EEG@EOP.GOV>
for barnes_bj@a1.eop.gov; Wed, 14 Apr 1999 18:20:06 -0500 (EST)

Received: (from x400@localhost) by hqmail.usda.gov (8.8.6 (PHNE_14041)/8.7.3)
id SAA29392 for barnes_bj@a1.eop.gov; Wed, 14 Apr 1999 18:17:43 -0400 (EDT)

Received: by ATTMAIL; Wed, 14 Apr 1999 16:48:00 -0400

Content-identifier: child care progr

X-Mailer: Worldtalk (NetJunction 4.6-p2)/MIME

Original-encoded-information-types: IA5-Text

Priority: 3

X400-MTS-identifier: [/P=GOV+USDA/A=ATTMAIL/C=US/;3714FF1A.0A97.0717.000]

X-Priority: 3

Statement of Under Secretary Shirley Watkins
for NBC Nightly News
April 14, 1999

The Child and Adult Care Feeding Program provides 70 million meals each month to children and adults in day care facilities. While funded by the federal government, the program is administered at the local level. We have worked with the Inspector General on this investigation from its inception. We agree with the recommendations of the Inspector General's report and are implementing the report's suggestions for improving the management of this program. We have already hired additional state and local monitors and are providing greater assistance for accounting and reporting requirements, where most of the problems are found. It is my priority to run a sound program -- a program that deserves taxpayers' support and fulfills our agency's mission of providing nutrition assistance to those in need.

#

Withdrawal/Redaction Marker

Clinton Library

| DOCUMENT NO. AND TYPE | SUBJECT/TITLE | DATE | RESTRICTION |
|--------------------------|--|------------|-------------|
| 001. email | Dan Marcus to Elena Kagan, et al, re: ESEA - anti-smoking programs (partial) (1 page) | 04/15/1999 | P6/b(6) |

COLLECTION:

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

FOLDER TITLE:

[04/15/1999-04/16/1999]

2009-1006-F
 bm108

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- b(8) Release would disclose information concerning the regulation of financial institutions [(b)(8) of the FOIA]
- b(9) Release would disclose geological or geophysical information concerning wells [(b)(9) of the FOIA]

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RR. Document will be reviewed upon request.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Dan Marcus (CN=Dan Marcus/OU=WHO/O=EOP [UNKNOWN])

CREATION DATE/TIME:15-APR-1999 10:49:55.00

SUBJECT: ESEA -- anti-smoking programs

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

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

TEXT:

This is to pass on to you, from Randy Moss, a concern re the forthcoming ESEA reauthorization proposal that OLC expressed to Dept of Education, was rebuffed, and wants the White House to be aware of for our consideration.

The proposed bill, as I understand from Randy, would condition substantial ESEA funding on the states' adoption of school anti-smoking programs. OLC has no problem with tying some ESEA funding to state antismoking programs, but worries about proportionality -- i.e., whether the sanction for not adopting the anti-smoking programs, in terms of loss of all ESEA funding, is too large given the small size of the antismoking program. They recommended to Dept of Ed that they put only a smaller subset of ESEA funding at risk. The OLC recommendation was made, not because they think the original proposal is indefensible, but to reduce litigation risk. For in the Supreme Court's leading decision on this issue, South Dakota v. Dole, 483 U.S. 203, 211 (1987), the Court, while upholding the legitimacy in general of using federal funds as an inducement to states to do what the feds want, warned that "in some circumstances the financial inducement offered by Congress might be so coercive as to pass the point at which 'pressure turns into compulsion.'" No decision since Dole has struck down a federal-state grant program on this ground, but recently 6 of 13 judges in a 4th Circuit en banc decision

P6(b)(6) said that a substantial 10th Amendment issue was presented where the entirety of a large federal grant would be withheld if the states failed to fall in line on some minor matter. [000]

Dept of Ed said no, and they and we may well feel that anti-smoking stuff is important enough that we want a big club/inducement. Randy and OLC think we'd be safer if we tailored to sanction more. They are not saying this is a "must" (and they are not retaliating for Helms v. Picard !), but wanted to see what we think.

I personally doubt that the risk is great enough here -- given the popularity of school antismoking programs -- to justify pressing this point, but you guys can decide!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Karin Kullman (CN=Karin Kullman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:15-APR-1999 11:06:53.00

SUBJECT: Radio Address

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

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

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

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

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

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

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

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

TEXT:

As I understand it, the status of the radio address decision process is that we are proceeding ahead with both the foreign and domestic topics. We should have both ready to go, and a final decision will be made later on. Therefore, we will proceed here as if we are doing the elder crimes topic, and will have everything ready to go.

Let me know if anyone has heard something different from this.

thanks

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Karin Kullman (CN=Karin Kullman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:15-APR-1999 11:20:36.00

SUBJECT: New Event Ideas

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

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

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

TEXT:

I will go ahead and compile all of the new event ideas into one document,
and get this to you as soon as possible.

Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Michelle Peterson (CN=Michelle Peterson/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:15-APR-1999 13:01:39.00

SUBJECT: WHCO Memo re: Bioterrorism

TO: Lisa Gordon-Hagerty (CN=Lisa Gordon-Hagerty/OU=NSC/O=EOP @ EOP [NSC])
READ:UNKNOWN

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

TO: Caroline D. Krass (CN=Caroline D. Krass/OU=NSC/O=EOP @ EOP [NSC])
READ:UNKNOWN

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

TO: Amandeep K. Matharu (CN=Amandeep K. Matharu/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

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

TO: Gerald L. Epstein (CN=Gerald L. Epstein/OU=OSTP/O=EOP @ EOP [OSTP])
READ:UNKNOWN

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

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

TO: William F. Wechsler (CN=William F. Wechsler/OU=NSC/O=EOP @ EOP [NSC])
READ:UNKNOWN

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

TO: Michelle Peterson (CN=Michelle Peterson/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: Bruce W. MacDonald (CN=Bruce W. MacDonald/OU=OSTP/O=EOP @ EOP [OSTP])
READ:UNKNOWN

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

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

TEXT:

Attached is a memorandum with Chuck Ruff's thoughts about the DOJ-HHS dispute on bioterrorism.

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D90]ARMS11815402B.136 to ASCII,
The following is a HEX DUMP:

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60A30D66F5137AB7BF968A4895EC5446D8B272D5D335FD900B2B2B89D98197A83A03FAD095AD9B
EBB542FA5640C795ECD CDCD05C3729A5ABA5089283B5E38392ED7980CF2E25C680DDACC1C93FF6

April 15, 1999

MEMORANDUM CONCERNING BIOTERRORISM LEGISLATION

I believe that HHS has by far the better of the argument. The Justice proposals appear to me to be poorly thought out and largely unnecessary.

Reckless handling: If Justice's concern is that persons with biological agents at home pose a serious danger, that risk is already addressed by the provision punishing possession. Presumably, not many home labs will be "registered entities." If the problem is recklessness by authorized researchers, criminal prosecution seems an unlikely response. In the real world, there will be few, if any, prosecutions (compare FDA practices); rigorous inspection, high civil penalties, and withdrawal of registration are much more likely to be implemented and to serve as meaningful deterrents.

Restricted individuals: First, it is wholly unclear to me how this provision is to be implemented. Will every registered entity be required to register its employees -- *i.e.*, have them fill out a form and either submit it to the government or have it available for inspection? What other steps will an employer be required to take to ensure the fitness of its employees? If there is no federally required form to be filled out, how will an employee who conceals a disqualifying status be punished?

Second, the wholesale adoption of Brady disqualifiers seems ill-suited to the world of biological agents. For example, I fail to see the relevance of a "stay away" or similar protective order to an individual's ability to handle agents safely. Moreover, the notion that waivers may be granted by employers is unrealistic. From the law enforcement perspective, there is no standard by which the legitimacy of the waiver can be tested. From the practical perspective, the employer must first find out that there is a possible basis for restriction (see my first comment on what disclosure employees will have to make) and then decide whether granting a waiver will put it at risk of some governmental sanction, as to which decision it will surely err on the side of non-waiver. Moreover, whatever will be done about clearing new hires, what does an employer do about the people who have worked for it for five years? And if an employee becomes subject to a domestic violence protective order, must he be fired immediately?

In sum, at the very least, the Justice proposals need a lot more thought and real-world consultation. I oppose including them in the bill but will be happy to meet for further discussion.

Chuck Ruff

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:15-APR-1999 13:10:29.00

SUBJECT: America On-Line

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

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

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

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

TEXT:

The DoL will be announcing today that they will begin an investigation under the wage and hour laws of America On-Line. Apparently, the complaint is that America On-Line has appx 10,000 volunteers who are claiming to be performing work for the corporation and they are not being compensation.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:15-APR-1999 14:05:54.00

SUBJECT: FINAL TAX PAPER

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Jeffrey A. Forbes (CN=Jeffrey A. Forbes/OU=WHO/O=EOP @ EOP [UNKNOWN])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Alison Muscatine (CN=Alison Muscatine/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Jacob J. Lew (CN=Jacob J. Lew/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

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

READ:UNKNOWN

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

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

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

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

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

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

TO: MCrisci@arnellgroup.com (MCrisci@arnellgroup.com [UNKNOWN])
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

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

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

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

READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

READ:UNKNOWN

TO: Henry C. Kelly (CN=Henry C. Kelly/OU=OSTP/O=EOP @ EOP [OSTP])
READ:UNKNOWN

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

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

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

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

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

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

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

TEXT:

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D99]ARMS11584502R.136 to ASCII,
The following is a HEX DUMP:

FF5750430F070000010A02010000000205000000B31D00000002000012EF89B4FC265CEEC4330B
E5627A79BF4B616E6DF51FD4AF72F8985556E2A8C3B5F00EDA51A81D5FFBECCDC5FED6D6E2611B

**CBO STUDY AND TREASURY SHOWS
THAT FOR MIDDLE-INCOME FAMILIES
TAXES ARE DOWN UNDER PRESIDENT CLINTON AND
ARE NOW THE LOWEST IN DECADES**

A Recent CBO Study Concluded That Taxes For Middle-Income Americans Are Down Under President Clinton And The Lowest in Decades. The non-partisan Congressional Budget Office (CBO) recently released their regular study on the effective Federal tax rate paid by America's families.

CBO's study calculates the income, payroll, corporate, and excise taxes paid by families. This year's study finds that taxes are down for middle-income families and are now the lowest since these data were first reported by CBO for 1977.

- **Under President Clinton, Taxes For Middle-Income Families Are Down.** According to CBO, the effective Federal tax rate of the 20 percent of American families with middle incomes fell from 19.2 percent in 1992 to 18.9 percent in 1999 -- that's the lowest tax rate since data were first reported 20 years ago.
- **For Poor Families, Taxes Are Down Dramatically Since 1992.** The CBO report shows that the effective tax rate on the poorest 20 percent of Americans fell from 8.0 percent to 4.6 percent in 1999. Since 1992, the effective Federal tax rate of the second 20 percent of families has dropped from 14.7 percent to 13.7 percent. For the bottom 40 percent of American families, taxes are now the lowest on record (data first reported for 1977).
- **For Middle-Income Families, Taxes Are The Lowest On Record, Not the Highest.** This CBO report shows once and for all that the Republican's claim that taxes are the highest in history is just plain false. For middle-income families, the effective Federal tax rate is now lower than in any year Ronald Reagan was President; indeed, it is lower than any year data were reported. For the bottom 60 percent of families as a whole, the effective Federal tax rate is down -- to its lowest on record (since data were first reported for 1977).
- **Under Ronald Reagan, Taxes on the Poor Were Hiked and Taxes on the Rich Were Cut.** Under President Reagan, the effective Federal tax rate of the poorest 20 percent of American families increased from 8.1 percent in 1980 to 9.3 percent in 1988. At the same time, the richest 20 percent of American families had their effective tax rate cut from 27.6 percent in 1980 to 26.2 percent in 1988.

The CBO Study Confirms Treasury Data That Shows the Federal Tax Burden from Income and Employee Payroll Taxes Are Down for Middle-Income Families Under President Clinton.

- **For Family of Four Earning \$55,000: Lowest Federal Tax Burden in Over 20 Years.** In 1999, for the typical American family of four -- with income of about \$55,000 -- the average federal income and employee payroll tax burden will be the lowest in more than two decades (1976). In 1999, the federal tax burden will be 15.1 percent -- down from 16.8 percent in 1992 and lower than any year Ronald Reagan was President. [Treasury Department, Office of Tax Analysis, 1/15/98]
- **Lowest Federal Tax Burden in Over 30 Years for Typical Family of Four Earning \$27,000.** In 1999, for an American family of four with income of about \$27,000, the average federal income and employee payroll tax burden will be the lowest in more than three decades (1965). For this family, the average federal tax rate will be 6.5 percent -- down from 12.2 percent in 1992 and lower than any year Ronald Reagan was President. [Treasury Department, Office of Tax Analysis, 1/15/98]

THE BOTTOM LINE FOR CLINTON/GORE TARGETED TAX CUTS
Helping Americans Families

Single Parent with \$20,000 of earned income, no other income, and two children under age 17.

- This family will receive a tax refund of \$2,820 instead of \$1,065 -- that is 165 % more, because of the targeted tax cuts this Administration has created and expanded to help American families.

| | |
|---------------------------------------|-----------------|
| Earned Income (Adjusted Gross) | \$20,000 |
| Less: Standard Deduction | \$6,950 |
| Less: Exemptions | \$9,000 |
| Taxable Income | \$4,050 |
| | |
| Tax Before Credits | \$608 |
| | |
| Child Tax Credit | \$608 |
| Earned Income Tax Credit* | \$2,820 |
| Total Tax Credits | \$3,428 |
| | |
| Tax Refund | \$2,820 |

The Earned Income Tax Credit was expanded under Clinton/Gore by \$1,147.

THE BOTTOM LINE FOR CLINTON/GORE TARGETED TAX CUTS
Helping Americans Families

Married couple with one spouse earning \$40,000 of earned income, no other income, two children under 17.

- This family will pay just \$2,015 in taxes instead of \$3,015 -- that is 33 % less because of the targeted tax cuts this Administration has created to help American families.

| | |
|---------------------------------------|-----------------|
| Earned Income (Adjusted Gross) | \$40,000 |
| Less: Standard Deduction | \$7,900 |
| Less: Exemptions | \$12,000 |
| Taxable Income | \$20,100 |
| | |
| Tax Before Credits | \$3,015 |
| | |
| Child Tax Credit | \$1,000 |
| | |
| Tax After Credits | \$2,015 |

THE BOTTOM LINE FOR CLINTON/GORE TARGETED TAX CUTS
Helping Americans Families

Married Couple with combined income of \$60,000 earned income, no other income, two children (ages 15 and 19) with the older youth attending community college.

- This family will pay \$3,680 instead of \$5,580 -- that is 34 % less because of the targeted tax cuts this Administration has created to help American families.

| | |
|---------------------------------------|-----------------|
| Earned Income (Adjusted Gross) | \$60,000 |
| Less: Itemized Deduction | \$10,800 |
| Less: Exemptions | \$12,000 |
| Taxable Income | \$37,200 |
| | |
| Tax Before Credits | \$5,580 |
| | |
| Child Tax Credit | \$500 |
| HOPE Scholarship Credit | \$1,400 |
| Total Tax Credits | \$1,900 |
| | |
| Tax After Credits | \$3,680 |

CLINTON/GORE RECORD OF TARGETED TAX CUTS*Others Agree: Its Lowest Tax Burden in 2 Decades*

“Overall, tax collections are up; because the economy is strong, the well off, the people taxed at the highest rates, are doing very well. For most Americans, however, the tax burden has stayed constant or even declined since the tax revolt of the late 1970s.” - Wall Street Journal, March 5, 1999

“Thanks largely to the \$500 per child tax credit, a family of four earning the national median income now faces a lower effective tax rate than at any time since the 1960s.” - Floyd Norris, April 11, 1999.

“[But] the tax burden on the middle class and working class has decreased.” - NY Times, April 11, 1999.

“The Federal tax burden for most Americans is the lowest in more than two decades. Sure, tax revenues are streaming into the U.S. Treasury at a record rate. But the windfall reflects an explosion in executive compensation and gains on stocks and real estate” - Business Week, April 5, 1999

“From a working mother cleaning hotel rooms for a little more than the minimum wage to a computer-company executive bringing home half a million dollars a year, Americans across the economic spectrum will pay less of their income in federal taxes this year than they did 20 years ago. ”

- The Washington Post, February 21, 1999

(based on analysis by the Deloitte & Touche accounting firm for The Washington Post)

| | Earnings | Federal Tax |
|---------------------------------|-----------|-------------|
| Working Mother | | |
| 1979 | \$9,000 | 8.6% |
| 1999 | \$19,500 | 5.0% |
| Struggling middle-income family | | |
| 1979 | \$16,000 | 11.2% |
| 1999 | \$35,100 | 10.5% |
| Better-off middle income family | | |
| 1979 | \$39,000 | 17% |
| 1999 | \$85,00 | 16.3% |
| Young Urban Professionals | | |
| 1979 | \$45,000 | 24.3% |
| 1999 | \$100,000 | 24.1% |
| Double income, no kids | | |
| 1979 | \$61,000 | 24.0% |
| 1999 | \$135,000 | 24.0% |
| Country-club crowd | | |
| 1979 | \$216,000 | 33.1% |
| 1999 | \$475,000 | 28.3% |

Source: Deloitte & Touch for The Washington Post, February 21, 1999

Hex-Dump Conversion
PRESIDENT CLINTON and VICE PRESIDENT GORE -- ECONOMIC STRATEGY
Providing Tax Relief to Middle-Income American Families

Because of President Clinton's and Vice President Gore's 1993 economic plan and the 1997 balanced budget agreement, the typical middle-income family has the lowest federal tax burden in over 20 years. The President's FY2000 budget builds on this record and proposes targeted tax relief for retirement saving, long-term health care, education, child care, community revitalization, and the environment.

The 1993 Economic Plan -- Passed Without a Single Republican Vote -- Helped Slash the Deficit, While Providing Tax Cuts for Working Families and Small Businesses.

- **Tax Cuts for 15 Million Working Families.** In 1993, President Clinton and the Democrats provided tax cuts to 15 million hard-pressed working families -- the average family with two kids who received the EITC got a tax cut of \$1,026.
- **Tax Cuts for Small Businesses.** Over 90 of small businesses are eligible for tax reductions through the increased small business expensing limit and capital gains tax relief targeted to small businesses.

The 1997 Balanced Budget Agreement Provided Tax Relief To Make It Easier for Working Families To Raise Their Children and Send Them to College.

- **\$500 Child Tax Credit To Help 27 Million Families.** The balanced budget agreement included a \$500 tax credit for each child under 17 years old. This tax cut will help 27 million families with 45 million children under 17. The President fought to ensure that 13 million children from families with incomes below \$30,000, such as young teachers, police officers, farmers, and nurses, receive the child tax credit.
- **\$1,500 HOPE Scholarship Help To Make the First Two Years of College Universally Available.** The balanced budget agreement included a \$1,500 HOPE scholarship tax credit to help make the 13th and 14th grades as universal as a high school diploma is today.
- **20 Percent Tuition Tax Credit for College Juniors, Seniors, Graduate Students and for Working Americans Pursuing Lifelong Learning to Upgrade Their Skills.** The 20 percent Lifetime Learning Tax Credit applies to the first \$5,000 of a family's qualified education expenses through 2002, and to the first \$10,000 thereafter.

Because of this Strong Record, the Typical Middle-Income Family Will Face the Lightest Federal Tax Burden in Decades:

- **For a Family of Four Earning \$55,000: Lowest Federal Tax Burden in Over 20 Years.** In 1999, for the typical American family of four -- with income of about \$55,000 -- the average federal income and employee payroll tax burden will be the lowest in more than two decades (since 1976). In 1999, the federal tax burden will be 15.1 percent -- down from 16.8 percent in 1992 and lower than in any year Ronald Reagan was President. [Treasury Department, Office of Tax Analysis, 1/15/98]
- **Lowest Federal Tax Burden in Over 30 Years for Typical Family of Four Earning \$27,000.** In 1999, for an American family of four with income of about \$27,000, the average federal income and employee payroll tax burden will be the lowest in more than three decades (since 1965). For this family, the average federal tax rate will be 6.5 percent -- down from 12.2% in 1992 and lower than any year Ronald Reagan was President. [Treasury Department, Office of Tax Analysis, 1/15/98]

The President's FY2000 Budget Takes the Next Step, Proposing Tax Relief For:

- **USA Accounts provide a Progressive Approach for Retirement Savings for the Majority of Working Americans.** These accounts will give 124 million Americans the opportunity to build wealth and to save for their retirement through a progressive tax cut. A middle income married couple that participated for 40 years, could accumulate over \$253,680 in today's dollars -- enough to produce \$20,121 a year of after-tax income in retirement.
- **A \$1,000 Long-term Care Tax Credit** to help pay for formal and informal long-term care services for about 2 million Americans, including 1.2 million older Americans, over 500,000 non-elderly adults, and approximately 250,000 children. The budget includes \$5.6 billion over five years.
- **A \$1,000 Tax Credit for Work-related Expenses for People with Disabilities to help cover the formal and informal costs that are associated with employment, such as special transportation and technology needs.** This tax credit will help 200,000 to 300,000 Americans. The budget includes \$700 million over 5 years.
- **Tax Credits to Build Modern Schools for Our Children.** A centerpiece of the President's tax cut agenda is to provide Federal tax credits to pay interest on nearly \$25 billion in bonds to build and renovate public schools. Two types of bonds are being proposed: School Modernization Bonds (\$22.4 billion) and Qualified Zone Academy Bonds (\$2.4 billion). \$400 million of the school modernization bonds will go to tribes or tribal organizations for the construction and renovation of BIA funded schools. The budget includes \$3.7 billion over 5 years for the tax credits on these bonds.
- **Tax Relief for Child Care for Three Million Working Families, Plus Tax Relief to Parents Who Stay at Home.** The President's proposal increases the child and dependent care tax credit (CDCTC) for families earning up to \$59,000, providing an additional average tax cut of \$345 for these families and eliminating income tax liability for almost all families with incomes below 200% of poverty (\$35,000 for a family of four) that claim the maximum allowable child care expenses. The President also proposes to enable parents who have children under one year old to take advantage of the CDCTC by allowing them to claim assumed child care expenses of \$500. The President's budget proposal will provide parents with young children an average tax credit of \$178 and will benefit 1.7 million families. Overall, the budget includes \$6.3 billion over five years for this combined proposal.
- **Better America Bonds.** The President is proposing Federal tax credits to pay the interest on \$9.5 billion in bonds over five years for investments by state, local and tribal governments. The bonds can be used to preserve green space, create or restore urban parks, protect water quality, and clean up brownfields (abandoned industrial sites). The budget includes \$673 million over five years.
- **Increase the Low-Income Housing Tax Credit.** To expand and improve the supply of available low income housing, the budget raises the allocation of low-income housing tax credits to States. The President proposes to raise the State per capita cap from \$1.25 to \$1.75 beginning in 2000. The budget's \$1.7 billion over five years will lead to an additional 150,000 to 180,000 units of affordable housing over five years.
- **Tax Credits For More Fuel Efficient Vehicles and Homes.** The budget contains \$3.6 billion over the next 5 years in tax cuts for energy-efficient purchases and renewable energy, including: tax credits of between \$1,000 and \$4,000 for consumers who purchase advanced-technology, highly fuel-efficient vehicles; a 15 percent credit (up to \$2,000) for purchases of rooftop solar equipment; and a tax credit of up to \$2,000 for purchasing energy-efficient new homes.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:15-APR-1999 17:59:30.00

SUBJECT:

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

READ:UNKNOWN

TEXT:

Please call Bruce 66262

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Karin Kullman (CN=Karin Kullman/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:15-APR-1999 18:38:22.00

SUBJECT: Teacher of the Year Press Paper

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

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

The press office would like to have our press paper for Monday's Teacher of the Year event by 4:00pm tomorrow.

kk

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jordan Tamagni (CN=Jordan Tamagni/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:15-APR-1999 20:16:28.00

SUBJECT: Radio Rough -- Taping tomorrow 5:45pm

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

READ:UNKNOWN

TO: mawaldman (mawaldman @ aol.com @ inet [UNKNOWN])

READ:UNKNOWN

TO: Devorah R. Adler (CN=Devorah R. Adler/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: Joshua S. Gottheimer (CN=Joshua S. Gottheimer/OU=WHO/O=EOP @ EOP [WHO])

READ:UNKNOWN

CC: Sarah A. Bianchi (CN=Sarah A. Bianchi/O=OVP @ OVP [UNKNOWN])

READ:UNKNOWN

TEXT:

Draft 4/15/99 8:00pm

Tamagni

PRESIDENT WILLIAM J. CLINTON

RADIO ADDRESS ON ELDER ABUSE

DETROIT, MICHIGAN

April 17, 1999

Good morning. Of all the duties we owe to one another, our duty to our parents and grandparents is among the most sacred. Today I want to talk to you about the steps I believe we must take to build a safety net for America's seniors that cracks down on elder crime, nursing home abuse, and health care fraud.

For more than six years, we have worked hard to take back our streets from crime and give American families the security they need to thrive -- and we have made remarkable progress, with the violent crime dropping to its lowest levels in thirty years.

For elderly Americans who once locked themselves into their homes at night in fear, the falling crime rate has been a godsend. But for many older Americans, the greatest threat to their well being is not a criminal armed with a gun, but a scam artist armed with a slick rap and a telephone. And for our most vulnerable seniors -- those who are sick or disabled and living in nursing homes -- there is no way to lock the door against abuse and neglect by the very people paid to care for them.

That is why next month I will send to Congress a 21st Century Crime Bill that targets those who would prey on elderly Americans.

First, we must take action against telemarketing fraud that robs senior citizens of their life savings and endangers their well being. Every year, thousands of illegal telemarketing operations bilk the American people of an estimated \$40 billion -- and more than half of the

victims are over 50.

My Crime Bill will give the Attorney General authority to terminate telephone service when the Justice Department has evidence of an illegal telemarketing operation. This new law will send a message to telemarketers: if you prey on older Americans, we will cut off your phone lines and shut you down.

Second, we must take action against nursing home neglect and abuse -- a practice that violates the law and the values we hold dear as a nation. We have already taken strong steps to put an end to nursing home abuse, issuing the toughest regulations in history and stepping up investigations of nursing homes suspected of neglect and abuse.

But when reports show that one out of 4 nursing homes in America still fail to provide quality care to their residents ...when people living in nursing homes have as much to fear from abuse and neglect as they do from the diseased of old age ... when families must worry as much about a loved one living in a nursing home as one living alone, then we are failing our parents, and we must do more.

My Crime Bill gives the Justice Department new authority to investigate, prosecute, and punish nursing homes operators who repeatedly neglect and abuse the people they are paid to care for. Make no mistake -- with prison sentences of up to five years and fines of up to \$2 million, these new provisions will make clear that we will not tolerate abuse and neglect of our parents and grandparents. And my bill will also protect whistle blowers who refuse to be silent in the face of neglect and abuse.

Third, we must press on in our fight against health care fraud. Every year, health care fraud costs American tax payers billions of dollars -- \$12.6 billion for Medicare fraud alone -- draining resources away from programs that provide vital care to senior citizens. As the Vice President announced last month, my Crime Bill will allow the Justice Department to take immediate action to stop false claims and illegal kick-back schemes, and grant federal prosecutors new tools to tackle fraud cases.

Finally, we must do more to safeguard the retirement and pension funds. My Crime Bill will toughen penalties for people who steal from pension funds through embezzlement, bribery, and graft. The only people who should benefit from pensions are the people who worked a lifetime to build them.

In all these ways, we will protect our parents and grandparents, protect our values, and build a stronger America for 21st Century.

Thanks for listening.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-APR-1999 08:20:05.00

SUBJECT: Pls come to COS ofc for 8:30 Budget Mtg.

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

READ:UNKNOWN

TEXT:

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-APR-1999 09:16:56.00

SUBJECT: Crime Strategy Meeting

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

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

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

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

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

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

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

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

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

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

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

TEXT:

We will NOT be having the Crime Strategy Meeting on Monday, April 19.
The next Crime Strategy meeting is planned for Monday, May 3, at 3:00 p.m.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Irene Bueno (CN=Irene Bueno/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:16-APR-1999 09:32:45.00

SUBJECT: Gov. Gray Davis decision on Prop. 187

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

Irene Bueno (CN=Irene Bueno/OU=OPD/O=EOP [OPD])

READ:UNKNOWN

TEXT:

Yesterday, CA Gov. Gray Davis decided not to appeal a lower federal court ruling finding Prop. 187 unconstitutional and has requested the 9th circuit for to mediate an agreement between the parties. This decision has been met by mixed reviews in California and confusion.

When the Proposition 187 was considered by California voters, the Administration opposed this proposition but since it has been challenged in Federal Court, my understanding is that the Administration had not made a public statements on the case.

I assume we will be asked for a press guidance this so I am trying to get more information.

Please let me know if you have any questions. Thanks

Withdrawal/Redaction Marker

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| DOCUMENT NO. AND TYPE | SUBJECT/TITLE | DATE | RESTRICTION |
|--------------------------|------------------------------|------------|-------------|
| 002. email | Phone No. (Partial) (1 page) | 04/16/1999 | P6/b(6) |

COLLECTION:

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 WHO ([Kagan])
 OA/Box Number: 500000

FOLDER TITLE:

[04/15/1999-04/16/1999]

2009-1006-F
bm108

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

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

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RR. Document will be reviewed upon request.

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Robert B. Johnson (CN=Robert B. Johnson/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:16-APR-1999 09:32:47.00

SUBJECT: Quentin Lawson

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

READ:UNKNOWN

TEXT:

I checked with Mr. Lawson this morning and was informed that they have not been given an opportunity to share their veiws with anyone in DPC. He is the Ex. Dir. of the National Alliance of Black School Educators a national group who have been very supportive of most our initiatives. his number is [REDACTED] Do me a favor and call him. Thanks.

[002]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-APR-1999 09:53:23.00

SUBJECT: Call from Robert Pear

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

CC: J. Eric Gould (CN=J. Eric Gould/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Robert Pear called, seeking data on use of the Welfare to Work tax credits. It sounds like Eli Segal spoke to one of his editors about all the Partnerships activities, including the help they provide companies on using the tax credits. We're working with Labor and others to get the data, but are hoping to steer Robert to a broader story about what companies are doing to train and retain former welfare recipients (some use tax credits to offset the cost) because any story wholly about the tax credits will have to have quotes from critics.

Robert doesn't seem in a hurry. We'll get the info together, see how it looks, and talk to you first before calling him back.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jordan Tamagni (CN=Jordan Tamagni/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:16-APR-1999 11:07:08.00

SUBJECT: Revised Radio

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

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

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

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

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

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

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

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

TEXT:

Draft 4/16/99 11:00am

Tamagni

PRESIDENT WILLIAM J. CLINTON

RADIO ADDRESS ON ELDER ABUSE

DETROIT, MICHIGAN

April 17, 1999

Good morning. Of all the duties we owe to one another, our duty to our parents and grandparents is among the most sacred. Today I want to talk about the steps we must take to build a safety net for America's seniors that cracks down on elder crime, fraud, and abuse.

For more than six years, we have worked hard to take back our streets from crime and give American families the security they need to thrive. We have made remarkable progress, with violent crime dropping to its lowest levels in twenty-five years.

For elderly Americans who once locked themselves into their homes in fear, the falling crime rate has been a godsend. But the greatest threat many older Americans face is not a criminal armed with a gun, but a telemarketing scam artist armed with a slick rap. And for our most vulnerable seniors -- those who are sick or disabled and living in nursing homes -- there is no way to lock the door against abuse and neglect by the very people paid to care for them.

That is why the 21st Century Crime Bill I will send to Congress next month includes tough measures to target people who prey on elderly

Americans.

First, we must take action against telemarketing fraud that robs senior citizens of their life savings and endangers their well being. Every year, illegal telemarketing operations bilk the American people of an estimated \$40 billion -- and more than half of the victims are over 50.

Last year, I signed into law tough new penalties for telemarketing fraud -- but we should take steps now to stop scam artists before they have a chance to harm America's senior citizens. My Crime Bill will give the Justice Department new authority to terminate telephone service when it finds evidence of an illegal telemarketing operation or a plan to start one. This new law will send a message to telemarketers: if you prey on older Americans, we will cut off your phone lines and shut you down.

Second, we must take action against nursing home neglect and abuse -- a practice that violates the law and the values we hold dear as a nation. We have already taken strong steps to put an end to nursing home abuse, issuing the toughest regulations in history and stepping up investigations of nursing homes suspected of neglect and abuse.

But when reports show that one out of four nursing homes in America still fail to provide quality care to their residents -- and when people living in substandard nursing homes have as much to fear from abuse and neglect as they do from the diseases of old age -- we know we must do more.

My Crime Bill gives the Justice Department new authority to investigate, prosecute, and punish nursing homes operators who repeatedly neglect and abuse their residents. With prison sentences of up to ten years or more and fines of up to \$2 million, these new provisions make clear that we will settle for nothing less than the highest quality care in America's nursing homes.

Third, we must press on in our fight against health care fraud. Every year, health care fraud costs American tax payers billions of dollars -- \$12.6 billion for Medicare fraud alone -- draining resources from programs that provide vital care to senior citizens. As Vice President Gore announced last month, my Crime Bill will allow the Justice Department to take immediate action to stop false claims and illegal kick-back schemes, and grant federal prosecutors new tools to tackle fraud cases.

Finally, we must do more to stop retirement plan rip-offs. My Crime Bill will toughen penalties for people who steal from pension and retirement funds through embezzlement, bribery, and graft. To borrow a line from Senator Leahy -- who is working closely with us to strengthen the safety net for America's seniors -- the only people who should benefit from pensions are the people who worked a lifetime to build them.

In all these ways, we will protect our parents and grandparents, protect our values, and build a stronger America for 21st Century.

Thanks for listening.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Irene Bueno (CN=Irene Bueno/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:16-APR-1999 11:38:28.00

SUBJECT: Charter Schools/Bill Lan Lee

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

READ:UNKNOWN

Irene Bueno (CN=Irene Bueno/OU=OPD/O=EOP [OPD])

READ:UNKNOWN

TEXT:

I have been asked to participate in a conference call today, Friday at 4pm on Bill Lan Lee and need your advice.

After our meeting on charter schools earlier this week, Tracey Thornton called me to inform me that Senator Hatch and other folks have linked the charter schools issue with Bill Lan Lee's nomination and they feel they need a letter or some document that separates this issue from his nomination asap.

I explained to Tracey that Education is drafting a letter that addresses the larger issue of civil rights and schools. Tracey thought that would be fine, however upon further reflection, I am not sure if this Education letter is really the kind of response that will separate the issue from Bill's nomination. It may make more sense for someone else - preferably with credibility in both the charter school and civil rights arenas - send a letter that separates this issue from Bill's nomination. Of course, we should provide policy directions but the letter could be similar to the general letter that White House Counsel's office drafted last month that indicates that the Administration supports both charter schools and civil rights.

Please let me know what you think. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ronald E. Jones (CN=Ronald E. Jones/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME:16-APR-1999 11:48:18.00

SUBJECT: JusticeTestimony for Flag Burning Constitutional Amendment -- comments req

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Michelle Peterson (CN=Michelle Peterson/OU=WHO/O=EOP@EOP [WHO])

READ:UNKNOWN

TEXT:

Justice has asked for clearance of this testimony by 11:00 AM Monday. The hearing is scheduled for 10:30 Tuesday, 4/20.

Copies of the proposed testimony (SJRESTEST) and the text of the Joint Resolution (SJRES14TXT.wpd) are attached.

No hard copy will be sent.

LRM ID: REJ57

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Friday, April 16, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution
below

FROM: Richard E. Green (for) Assistant Director for

Legislative Reference

OMB CONTACT: Ronald E. Jones

PHONE: (202)395-3386 FAX: (202)395-3109

SUBJECT: JUSTICE Report on SJRES14 Proposing an amendment to the U.S. Constitution authorizing Congress to prohibit the physical desecration of the U.S. flag.

DEADLINE: 11:00 AM Monday, April 19, 1999

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: Justice has asked for clearance of this testimony by 11:00 AM Monday. The hearing is scheduled for 10:30 Tuesday, 4/20.

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- Bruce N. Reed
- Elena Kagan
- Robert G. Damus
- Steven D. Aitken
- Sandra Yamin
- John E. Thompson
- Richard E. Green

LRM ID: REJ57 SUBJECT: JUSTICE Report on SJRES14 Proposing an amendment to the U.S. Constitution authorizing Congress to prohibit the physical desecration of the U.S. flag.

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: Ronald E. Jones Phone: 395-3386 Fax: 395-3109
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-3454

FROM: _____ (Date)
_____ (Name)

_____ (Agency)

_____ (Telephone)

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

_____ Concur

_____ No Objection

_____ No Comment

_____ See proposed edits on pages _____

_____ Other: _____

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

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

TEXT:

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SJ 14 IS

106th CONGRESS

1st Session

S. J. RES. 14

Proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

IN THE SENATE OF THE UNITED STATES

March 17, 1999

Mr. HATCH (for himself, Mr. CLELAND, Mr. ABRAHAM, Mr. ALLARD, Mr. ASHCROFT, Mr. BAUCUS, Mr. BOND, Mr. BREAUX, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. CAMPBELL, Ms. COLLINS, Mr. COVERDELL, Mr. CRAIG, Mr. CRAPO, Mr. DEWINE, Mr. DOMENICI, Mr. ENZI, Mrs. FEINSTEIN, Mr. FITZGERALD, Mr. FRIST, Mr. GORTON, Mr. GRAHAM, Mr. GRAMM, Mr. GRAMS, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HELMS, Mr. HOLLINGS, Mr. HUTCHINSON, Mrs. HUTCHISON, Mr. INHOFE, Mr. JOHNSON, Mr. KYL, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MACK, Mr. MCCAIN, Mr. MURKOWSKI, Mr. NICKLES, Mr. REID, Mr. ROBERTS, Mr. ROTH, Mr. SANTORUM, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH of New Hampshire, Ms. SNOWE, Mr. SPECTER, Mr. STEVENS, Mr. THOMAS, Mr. THOMPSON, Mr. THURMOND, and Mr. WARNER) introduced the following joint resolution; which was read twice and referred to the Committee on the Judiciary

JOINT RESOLUTION

Proposing an amendment to the Constitution of the United States authorizing Congress to prohibit the physical desecration of the flag of the United States.

Resolved by the Senate and House of Representatives of the United States of America in Congress assembled (two-thirds of each House concurring therein), That the following article is proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States within 7 years after the date of its submission for

ratification:

'Article--

'The Congress shall have power to prohibit the physical desecration of the flag of the United States.'

END

Testimony Before the
United States Senate Committee on the Judiciary

on

A Proposed Flag Desecration Constitutional Amendment

Randolph D. Moss
Acting Assistant Attorney General

Office of Legal Counsel
United States Department of Justice

April 20, 1999

Mr. Chairman, and Members of the Committee:

As you know, in 1989 the Supreme Court held in Texas v. Johnson¹ that a state could not, consistent with the First Amendment, enforce a statute criminalizing flag desecration against a demonstrator who burned an American flag. In 1990, in United States v. Eichman,² the Court held that the First Amendment prohibited the conviction of demonstrators for flag burning under a federal statute that criminalized mutilating, defacing, or physically defiling an American flag.

* In 1995, Walter Dellinger, Assistant Attorney General, Office of Legal Counsel, provided substantially similar testimony to the Subcommittee on the Constitution, Federalism, and Property Rights of the United States Senate Judiciary Committee regarding S.J. Res. 31, A Bill Proposing an Amendment to the Constitution of the United States to Grant Congress and the States the Power to Prohibit the Physical Desecration of the Flag of the United States.

¹ 491 U.S. 397 (1989).

² 496 U.S. 310 (1990).

For nine years, then, the flag has been left without any statutory protection against desecration. For nine years, one thing, and only one thing, has stood between the flag and its routine desecration: the fact that the flag, as a potent symbol of all that is best about our country, is justly cherished and revered by nearly all Americans. Chairman Hatch has eloquently described the flag's status among the American people:

The American flag represents in a way nothing else can, the common bond shared by a very diverse people. Yet whatever our differences of party, politics, philosophy, race, religion, ethnic background, economic status, social status, or geographic region, we are united as Americans. That unity is symbolized by a unique emblem, the American flag.³

It is precisely because of the meaning the flag has for virtually all Americans that the last nine years have witnessed no outbreak of flag burning, but only a few isolated instances. If proof were needed, we have it now: with or without the threat of criminal penalties, the flag is amply protected by its unique stature as an embodiment of national unity and ideals.

It is against this background that one must assess the need for a proposed constitutional amendment (S.J. Res. 14) that would provide Congress with the "power to prohibit," and presumably impose criminal punishment for, the "physical desecration" of the American flag.

The amendment, if passed, would for the first time in our history limit the Bill of Rights adopted over two centuries ago. It would thus run counter to our traditional resistance, dating back to the time of the Founders, to resorting to the amendment process. And it would do so to restrict the liberties that the Bill of Rights currently protects. Whether other

³ 141 Cong. Rec. S4275 (daily ed. Mar. 21, 1995).

truly exigent circumstances justify altering the Bill of Rights is a question we can put to one side here. For you are asked to assume the risk inherent in crafting a first-time exception to the Bill of Rights in the absence of any meaningful evidence that the flag is in danger of losing its symbolic value. Moreover, the amendment before you would create legislative power of uncertain dimension to override the First Amendment and other constitutional guarantees. For these reasons, the proposed amendment -- and any other proposal to amend the Constitution in order to punish a few isolated acts of flag burning -- should be rejected by this Congress.

I.

At the outset, I would like to emphasize that the Administration's views on the wisdom of the proposed amendment does not in any way reflect a lack of appreciation for the proper place of the flag in our national community. The President always has and always will condemn in the strongest of terms those who would denigrate the symbol of our Country's highest ideals.

The President's record reflects his long-standing commitment to protection of the American flag, and his profound abhorrence of flag burning and other forms of flag desecration. In 1989, after the Supreme Court invalidated the Texas statute at issue in Johnson, then-Governor Clinton responded promptly by recommending enactment of a new state law prohibiting all intentional destruction of a flag. The President worked hard to craft legislation that would survive Supreme Court review, and his view was that the statute was consistent with the First Amendment. As you know, however, the Supreme Court's subsequent decision in Eichman, invalidating the federal Flag Protection Act, appears to

foreclose legislative efforts to prohibit flag burning. In the wake of Johnson, then-Governor Clinton also instituted a state-wide "flag respect" program to teach school children proper appreciation for the flag. Working with veterans groups in Arkansas, Governor Clinton created a program that went on to win awards from the Veterans of Foreign Wars and the Vietnam Veterans of America.

II.

The text of the proposed amendment is short enough to quote in full: "The Congress shall have power to prohibit the physical desecration of the flag of the United States."⁴ The scope of the amendment, however, is anything but clear. Because the proposed amendment fails to state explicitly the degree to which it overrides other constitutional guarantees, it is entirely unclear how much of the Bill of Rights it would trump.

By its terms, the proposed amendment does no more than confer affirmative power upon Congress and the States to legislate with respect to the flag. Its wording is similar to the power-conferring clauses found in Article I, Section 8 of the Constitution: "Congress shall have power to lay and collect taxes," for instance, or "Congress shall have power . . . to regulate commerce . . . among the several states." Like those powers, and all powers granted government by the Constitution, the authority given by the proposed amendment would seem to be limited by the Bill of Rights and the Fourteenth Amendment.

The text of the proposed amendment does not purport to exempt the exercise of the power conferred from the constraints of the First Amendment or any other constitutional

⁴ S.J. Res. 14. See also H.J. Res. 33 (same).

guarantee of individual rights. Read literally, the amendment would not alter the result of the decisions in Eichman or Johnson, holding that the exercise of congressional and state power to protect the symbol of the flag is subject to First and Fourteenth Amendment limits. Rather, by its literal text, it would simply and unnecessarily make explicit the governmental power to legislate in this area that always has been assumed to exist.

To give the amendment meaning, then, we must read into it, consistent with its sponsors' intent, at least some restriction on the First Amendment freedoms identified in the Supreme Court's flag decisions. What is profoundly difficult is identifying just how much of the First Amendment and the rest of the Bill of Rights is superseded by the amendment. Once we have departed, by necessity, from the proposed amendment's text, we are in uncharted territory, and faced with genuine uncertainty as to the extent to which the amendment will displace the protections enshrined in the Bill of Rights.

We do not know, for instance, whether the proposed amendment is intended, or would be interpreted, to authorize enactments that otherwise would violate the due process "void for vagueness" doctrine. In Smith v. Goguen,⁵ the Court reversed the conviction of a defendant who had sewn a small flag on the seat of his jeans, holding that a state statute making it a crime to "treat contemptuously" the flag was unconstitutionally vague. We cannot be certain that the vagueness doctrine applied in Smith would limit as well prosecutions brought under laws enacted pursuant to the proposed amendment.

⁵ 415 U.S. 566 (1974).

Nor is this a matter of purely hypothetical interest, unlikely to have much practical import. The amendment, after all, authorizes laws that prohibit "physical desecration" of the flag, and "desecration" is not a term that readily admits of objective definition. On the contrary, "desecrate" is defined to include such inherently subjective meanings as "profane" and even "treat contemptuously" itself. Thus, a statute tracking the language of the amendment and making it a crime to "physically desecrate" an American flag would suffer from the same defect as the statute at issue in Smith: it would "fail[] to draw reasonably clear lines between the kinds of nonceremonial treatment that are criminal and those that are not."⁶

⁶ 415 U.S. at 574.

The term "flag of the United States" is similarly "unbounded,"⁷ and by itself provides no guidance as to whether it reaches unofficial as well as official flags, or pictures or representations of flags created by artists as well as flags sold or distributed for traditional display. Indeed, testifying in favor of a similar amendment in 1989, then-Assistant Attorney General William Barr acknowledged that the word "flag" is so elastic that it can be stretched to cover everything from cloth banners with the characteristics of the official flag, as defined by statute,⁸ to "any picture or representation" of a flag, including "posters, murals, pictures, [and] buttons".⁹ And while a statute enacted pursuant to the amendment could attempt a limiting definition, it need not do so; the amendment would authorize as well a statute that simply prohibited desecration of "any flag of the United States." Again, such a statute would implicate the vagueness doctrine applied in Smith, and raise in any enforcement action the question whether the empowering amendment overrides due process guarantees.

Even if we are prepared to assume, or the language of the amendment is modified to make clear, that the proposed amendment would operate on the First Amendment alone, important questions about the amendment's scope remain. Specifically, we still face the question whether the powers to be exercised under the amendment would be freed from all, or only some, First Amendment constraints, and, if the latter, how we will know which constraints remain applicable.

⁷ Id. at 575.

⁸ See 4 U.S.C. § 1.

⁹ Measures to Protect the Physical Integrity of the American Flag: Hearings on S. 1338, H.R. 2978, and S.J. Res. 180 Before the Senate Comm. on the Judiciary, 101st Cong., 1st Sess. 82-85 (1989) ["1989 Hearings"].

An example may help to illuminate the significance of this issue. In R.A.V. v. City of St. Paul,¹⁰ decided in 1992, the Supreme Court held that even when the First Amendment permits regulation of an entire category of speech or expressive conduct, it does not necessarily permit the government to regulate a subcategory of the otherwise proscribable speech on the basis of its particular message. A government acting pursuant to the proposed amendment would be able to prohibit all flag desecration,¹¹ but, if R.A.V. retains its force in this context, a government could not prohibit only those instances of flag desecration that communicated a particularly disfavored view; statutes making it a crime -- or an enhanced penalty offense -- to "physically desecrate a flag of the United States in opposition to United States military actions," for instance, would presumably remain impermissible.

This result obtains, of course, if and only if the proposed amendment is understood to confer powers that are limited by the R.A.V. principle. If, on the other hand, the proposed amendment overrides the whole of the First Amendment, or overrides some select though unidentified class of principles within which R.A.V. falls, then there remains no constitutional objection to the hypothetical statute posited above. This is a distinction that makes a difference, as I hope this example shows, and it should be immensely troubling to anyone

¹⁰ 112 S. Ct. 2538 (1992).

¹¹ Even a statute that prohibited all flag desecration would be in tension with the principle of R.A.V. Although a few acts done with a flag could be considered a "desecration" in all contexts, that would not be the case with burning, for example. Only some burnings could be prohibited by statutes adopted under the proposed amendment. Respectful burning of the flag will remain legal after the amendment's adoption as before. See 36 U.S.C. § 176(k) ("The flag, when it is in such condition that it is no longer a fitting emblem for display, should be destroyed in a dignified way, preferably by burning."). What may be prohibited is only that destruction of a flag that communicates a particular message, one of disrespect or contempt. The conclusion that a particular act of burning is a "desecration" may require in most instances consideration of the particular message being conveyed.

considering the amendment that its text leaves us with no way of knowing whether the rule of R.A.V. -- or any other First Amendment principle -- would limit governmental action if the amendment became part of the Constitution.¹²

III.

I have real doubts about whether these interpretive concerns could be resolved fully by even the most artful of drafting. In my view, any effort to constitutionalize an "exception" to the Bill of Rights necessarily will produce significant interpretive difficulties and uncertainty, as the courts attempt to reconcile a specific exception with the general principles that remain.¹³ But even assuming, for the moment, that all of the interpretive difficulties of this amendment could be cured, it would remain an ill-advised departure from a constitutional history marked by a deep reluctance to amend our most fundamental law. The Bill of Rights was ratified in 1792. Since that time, over two hundred years ago, the Bill of Rights has never once been amended. And this is no historical accident, nor a product only of the difficulty of the amendment process itself. Rather, our historic unwillingness to tamper with the Bill of

¹² Another proposed amendment, contained in H.J. Res. 5, provides: "The Congress and the States shall have power to prohibit the act of desecration of the flag of the United States and to set criminal penalties for that act." Not only does the phrase "act of desecration" appear to be broader, and more vague, than the term "physical desecration" in S.J. Res. 14 and H.J. Res. 33, but H.J. Res. 5 also grants the power of prohibition to the fifty states and an uncertain number of local governments. That raises, of course, the interpretive question whether state legislatures acting under the amendment would remain bound by state constitutional free speech guarantees, or whether the proposed amendment would supersede state as well as federal constitutional provisions.

¹³ For an earlier discussion of this problem in the context of a proposed Silent Prayer Amendment, see Walter Dellinger, The Sound of Silence: An Epistle on Prayer and the Constitution, 95 Yale L.J. 1631, 1644-45 (1986).

Rights reflects a reverence for the Constitution that is both entirely appropriate and fundamentally at odds with turning that document into a forum for divisive political battles.

The Framers themselves understood that resort to the amendment process was to be sparing and reserved for "great and extraordinary occasions."¹⁴ In The Federalist Papers, James Madison warned against using the amendment process as a device for correcting every perceived constitutional defect -- a practice that could not help but undermine the role of the Supreme Court.¹⁵ Of particular interest here, Madison objected especially to amendment on issues that inflamed public passion, fearing that such actions might threaten "the constitutional equilibrium of the government."¹⁶

The proposed amendment cannot be reconciled with this fundamental and historic understanding of the integrity of the Constitution. I think perhaps Charles Fried, who served with distinction as Solicitor General under President Reagan, made the point best when he testified against a similar proposed amendment in 1990:

¹⁴ The Federalist No. 49, at 314 (James Madison) (Clinton Rossiter ed., 1961).

¹⁵ See id. at 314.

¹⁶ Id. at 315-17. See also 1989 Hearings at 720-23 (statement of Professor Henry Paul Monaghan, Columbia University School of Law).

The flag, as all in this debate agree, symbolizes our nation, its history, its values. We love the flag because it symbolizes the United States; but we must love the Constitution even more, because the Constitution is not a symbol. It is the thing itself.¹⁷

IV.

Americans are free today to display the flag respectfully, to ignore it entirely, or to use it as an expression of protest or reproach. By overwhelming numbers, Americans have chosen the first option, and display the flag proudly. And what gives this gesture its unique symbolic meaning is the fact that the choice is freely made, uncoerced by the government. Were it otherwise -- were, for instance, respectful treatment of the flag the only choice constitutionally available -- then the respect paid the flag by millions of Americans would mean something different and perhaps something less.

#

¹⁷ Proposing an Amendment to the Constitution Authorizing the Congress and the States to Prohibit the Physical Desecration of the American Flag: Hearing Before the Senate Comm. on the Judiciary, 101st Cong., 2d Sess. 110 (1990).

Automated Flood Measurement System
Flow-Dump Controller

ACTION

Automated Records Management System
Hex-Dump Conversion

MEMORANDUM FOR THE CHIEF OF STAFF

FROM: SAMUEL BERGER
BRUCE REED
NEAL LANE
RON KLEIN
JACK LEW

SUBJECT: Proposed Biological Terrorism Provisions in the Omnibus Crime Bill

Purpose

To determine the Administration's position on the proposed biological terrorism provisions in the Omnibus Crime Bill.

Background

There is consensus within the Administration that serious gaps exist in federal bioterrorism laws. In contrast to chemical, nuclear or radiological weapons, there are currently few laws in place designed to limit the availability of biological weapons to the general public. Current laws punish perpetrators after they unleash biological warfare agents; they do not address inappropriate possession or "bio-hoaxes." Accordingly, there is interagency agreement that the proposed Omnibus Crime Bill should include new provisions controlling:

- Possession of biological agents not justified by a peaceful purpose. Justification would depend on the type, quantity, and purpose of the agent.
- Unregistered possession of selected biological agents. This provision, a logical extension of current CDC transfer regulations, recognizes that authorities should be aware of who is handling the most deadly biological agents. Although establishing an initial inventory may pose a challenge to the scientific community, any continuing reporting burden would be minimal for scientific facilities that already comply with CDC transfer regulations. The President would have 60 days after this legislation takes effect to designate the agency that would be responsible for the registration process.
- Knowingly perpetrating a hoax regarding the use of harmful biological agents. This provision is necessary given the recent spate of such hoaxes as the rash of anthrax scares in California.
- Reckless handling of biological agents. This captures handling of biological agents that creates an "unreasonable risk to public health and safety," e.g., handling biological agents in a manner that willfully creates a risk to public health and safety. (Indications are that this issue has been resolved but we have not yet seen compromise language)

There is disagreement between HHS and DOJ, however, about whether and how to restrict certain individuals from handling biological agents:

- Possession of selected biological agents by a restricted individual. In language taken verbatim from the Brady Bill, this provision asserts that factors such as a felony record, country of permanent residence, or mental impairment raise important questions about a person's suitability to possess deadly biological agents. Exceptions are permitted in appropriate circumstances.

Justice Position

DOJ argues that bioterrorism is a growing concern in the Congress and that many on both sides of the aisle will be looking to see if the Administration will produce a draft bill with a strong law enforcement focus before introducing their own proposals. Justice believes that these provisions taken together will provide law enforcement with critical tools to prevent a bioterrorism catastrophe, while being minimally intrusive on legitimate research. With respect to the "restricted individuals" provision, DOJ claims that all an employer would have to do is ask the applicant a list of questions and get a yes/no response and is willing to make this self-reporting mechanism explicit in bill language.

In other words, DOJ asserts the employer would not be required to conduct an extensive background check and would not be held liable in the case of an incident. Further, DOJ has indicated flexibility on the conditions which would restrict possession of select agents, arguing that only felons, fugitives and those dishonorably discharged from the military be excluded. They have offered to give HHS flexibility to determine what other restrictions should apply within a specified timeframe, without requiring that the extensive list of Brady bill restrictions apply. While Justice has indicated some flexibility on this issue, it is clear they want some type of check in the bill.

HHS Position

HHS believes that the requirement for background checks for individuals handling or possessing dangerous biological agents does not ensure that the investigation focuses on reasonable indicators of irresponsible behavior or terrorist proclivities. For example, the provision covers misdemeanor convictions, which could include domestic violence; addiction to controlled substances, which could include prescription medications; or hospitalization for mental conditions, which could include temporary depressions. Although the Justice provision allows for exceptions, HHS believes that in practice, employers would not be willing to accept the risk of waiving the requirement for certain employees, thus essentially excluding qualified scientists with minor offenses from the profession.

HHS would instead set a Presidential deadline of 60 days for consultation with the scientific community to draft a proposal to this issue, and would hold off on including this provision in the Crime Bill at this time. The proposal would include: measures to address the training of

scientists; safe procedures for handling, storage and security of biocontaminants; civil fines and penalties; and the question of what personal characteristics or events in an individual's history could legitimately support exclusion from research on select agents. HHS believes that investing the community in the subsequent drafting process would invest this extremely important constituency in our policy.

Recommended Solution

Both agencies have had extensive policy-level discussion on this topic for the past 10 days and have indicated some flexibility in their positions, but without agreement thus far. We are united in our belief that some background check is necessary, which is a fundamental point for DOJ that HHS has been unwilling to concede. However, we believe that there are middle-ground options that accomplish DOJ's goal of keeping certain individuals away from these materials while acknowledging HHS' concern that the list of conditions need not be as long or burdensome as the original proposal. What follows is a series of steps that we believe should address both agencies' concerns:

Restrict felons, fugitives and those with dishonorable military discharges from possession

This should address HHS' personal privacy concerns and reluctance to ask intrusive questions of scientists, while accomplishing DOJ's objective to limit access to these agents.

Make self-reporting mechanism explicit in language to limit need for background checks

for possession of select agents by a restricted individual. Change language to make it sufficient for the employer to inquire on the job application form whether an individual has a prior felony conviction, is a fugitive from justice, or has ever been dishonorably discharged from the military in order to meet their responsibility.

Additionally, questions asked in connection with these provisions should be made subject to 18 USC 1001, the False Statement Accountability Act of 1996, which would hold the applicant liable for responding accurately. The impact would be to impose civil and/or criminal penalties for making false statements on the individual, not the employer. Violators of 18 USC 1001 may be fined or imprisoned for up to five years.

Make HHS responsible for issuing waivers

For individuals that have felony convictions or would otherwise be restricted from handling selected agents, employers would be allowed to apply to HHS for waivers. HHS would promulgate regulations that outline procedures for granting waivers including requiring that a background investigation be completed by a law enforcement agency. HHS would then determine the suitability of the individual to handle restricted agents. This would rely on the established background check and limit employer liability.

Consult with scientific community as we prepare to send the Crime Bill to Congress

As internal negotiations proceed on the Crime Bill language, allow HHS to begin the process of consulting the scientific community to seek their technical input and support for these provisions.

If you concur with this package of alternatives, we will work with DOJ and HHS to develop legislative language for them and have it reflected in the Crime Bill

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-APR-1999 12:21:35.00

SUBJECT: Meeting with Kennedy's Staff

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

CC: Iratha H. Waters (CN=Iratha H. Waters/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

This meeting is set for 10:30 a.m., Monday, April 19. They'll call me later today with the room number.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Bethany Little (CN=Bethany Little/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME:16-APR-1999 12:50:55.00

SUBJECT: Teacher of the Year speech

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Should the President mention in his speech for the Teacher of the Year award on Monday, that he is pleased with the ED-Flex conference decision to drop the Lott amendment, but to include strong accountability? Paul Glastris in speechwriting would like your opinion. Thanks!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-APR-1999 14:00:33.00

SUBJECT: Meeting with Kennedy's Staff

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

CC: Iratha H. Waters (CN=Iratha H. Waters/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

This meeting will be held in 644 Dirksen.

This meeting is set for 10:30 a.m., Monday, April 19. They'll call me later today with the room number.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Michelle Peterson (CN=Michelle Peterson/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:16-APR-1999 14:00:52.00

SUBJECT: Meeting on Bioterrorism

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

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

TO: Lisa Gordon-Hagerty (CN=Lisa Gordon-Hagerty/OU=NSC/O=EOP @ EOP [NSC])
READ:UNKNOWN

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

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

TEXT:

Counsel's Office continues to have concerns on both the reckless handling and restricted individual issues. Chuck does not want to send a memo to the President until it is clear what has been worked out and precisely what the remaining disagreements are. He would very much like to have a brief meeting soon rather than engage in continued (and seemingly fruitless) debate via succeeding email drafts. Is it possible to pull together the appropriate people soon -- either Monday am or after 4 pm, or on Tuesday? And who is the appropriate person/office to do so?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-APR-1999 14:02:00.00

SUBJECT: DPC Team Leaders Meeting

TO: Nicole R. Rabner (CN=Nicole R. Rabner/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: Paul J. Weinstein Jr. (CN=Paul J. Weinstein Jr./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: Karin Kullman (CN=Karin Kullman/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: Cynthia A. Rice (CN=Cynthia A. Rice/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

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

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

TEXT:

The DPC Team Leaders Meeting will be at 9:30 a.m. on Monday morning, April 19. Please be here on time -- this meeting will last 45 minutes.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jordan Tamagni (CN=Jordan Tamagni/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:16-APR-1999 14:28:48.00

SUBJECT: Revised Final

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TEXT:

Revised Final

Tamagni

PRESIDENT WILLIAM J. CLINTON

RADIO ADDRESS ON ELDER ABUSE
DETROIT, MICHIGAN
April 17, 1999

Good morning. Of all the duties we owe to one another, our duty to our parents and grandparents is among the most sacred. Today I want to talk about what we must do to strengthen the safety net for America's seniors, by cracking down on elder crime, fraud, and abuse.

For more than six years, we have worked hard to keep our families and our communities safe. We have made remarkable progress, with violent crime dropping to its lowest levels in twenty-five years.

For elderly Americans who once locked themselves into their homes in fear, the falling crime rate is a godsend. But the greatest threat many older Americans face is not a criminal armed with a gun, but a telemarketer armed with a deceptive rap. And our most defenseless seniors -- those who are sick or disabled and living in nursing homes -- cannot lock the door against abuse and neglect by the people paid to care for them.

America's senior citizens are especially vulnerable to fraud and abuse -- so we must take special steps to protect them. That is why the 21st Century Crime Bill I will send to Congress next month includes tough measures to target people who prey on elderly Americans.

First, we must fight telemarketing fraud that robs senior citizens of their life savings and endangers their well being. Every year, illegal telemarketing operations bilk the American people of an estimated \$40 billion -- and more than half the victims are over 50. That's like a fraud tax aimed directly at senior citizens.

Last year, we toughened penalties for telemarketing fraud -- but we should stop scam artists before they have a chance to harm America's seniors. My Crime Bill will give the Justice Department authority to terminate telephone service when agents find evidence of an illegal telemarketing operation or a plan to start one. This new law will send a message to telemarketers: if you prey on older Americans, we will cut off your phone lines and shut you down.

Second, we must fight nursing home neglect and abuse. Nursing homes can be a safe haven for senior citizens and families in need. To make sure they are, we have issued the toughest nursing home rules in history and stepped up investigations of facilities suspected of neglect and abuse. But when one out of four nursing homes in America does not provide quality care to their residents -- and when people living in substandard nursing homes have as much to fear from abuse and neglect as they do from the diseases of old age -- we must do more.

My Crime Bill gives the Justice Department authority to investigate, prosecute, and punish nursing homes operators who repeatedly neglect and abuse their residents. With prison sentences of up to 10 years or more and fines of up to \$2 million, these new provisions make clear that we will settle for nothing less than the highest quality care in America's nursing homes.

Third, we must fight health care fraud. Every year, health care fraud costs American tax payers billions of dollars, draining billions of dollars from programs that provide vital care to senior citizens. As Vice President Gore announced last month, my Crime Bill will allow the Justice

Department to take immediate action to stop false claims and illegal kick-back schemes, and give federal prosecutors new tools to tackle fraud cases.

Finally, we must fight retirement plan rip-offs. My Crime Bill will toughen penalties for people who steal from pension and retirement funds. To borrow a line from Senator Leahy -- who is working closely with us to strengthen the safety net for America's seniors -- the only people who should benefit from pensions are the people who worked a lifetime to build them.

I look forward to working with the Congress in the coming days to give America's senior citizens the security they deserve. That is how we will protect our parents and grandparents, protect our values, and build a stronger America for 21st Century.

Thanks for listening.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-APR-1999 15:56:50.00

SUBJECT: POTUS on Welfare and Crime from San Francisco

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Elena Kagan (CN=Elena Kagan/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: J. Eric Gould (CN=J. Eric Gould/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:

Q I'm the only resident from Vancouver, Washington, standing here, so -- (laughter.) Mr. President, my question has two parts. The first is, as you near the end of your second term in office and deal with such issues as the Balkans, what legacy do you believe you are leaving to the American public? Secondly, would you be specific, sir, in telling us ways in which America is better off for your presidency?

THE PRESIDENT: Well, I think, first of all -- let me answer the first question first. I think others will determine the legacy of this administration, and most of it will have to be done when all the records are there and time passes and people without an axe to grind one way or the other have a chance to have their say.

I can only tell you what I have tried to do. I have tried to lead America into a new century and into a whole new era in the way we work and live and relate to each other and the rest of the world. And I have tried to help build a world that was more peaceful, more prosperous and more secure.

I think that among the things that people will say this administration did and made progress on was, we gave the United States a modern economic policy and got out of 12 years of horrible deficit spending during which we quadrupled the debt. I think that the work we did to support the solution of social problems in reducing the welfare rolls by half, and reducing the crime rate, and putting 100,000 police on the street would be important. I think the work we did in education will be important.

I think the systematic effort we made to promote reconciliation among people of different racial groups will be important. I think the work we have done in the Middle East to Northern Ireland promoting peace will be important. I think the work we've done in Latin America, through the summit of the Americas, and the work we've done with our other allies in Central America will be important. I think there are a lot of things that will altogether add up to preparing America for the 21st century, building a stronger American community and repairing the social fabric.

And let me just say one thing. When I got off the airplane today there were a bunch of young people who are AmeriCorps volunteers. That's a program we started back in the second year of my presidency. And one young woman said to me, I'm 30 years old, you're the first President I ever voted for. I've kept up, you did what you said you'd do and it's worked. And her saying that to me meant more than just about anything any American could say.

When I was in New Hampshire for the 7th anniversary of the New Hampshire primary, there were schoolchildren along the highway waiting in the cold rain. And person after person said to me, you had to come to these little town meetings in 1991 and we listened to you and you've done what you said.

So what I think what will also happen is people will see Americans can solve their problems; government has a role to play and it can produce. So I think there's a sense of possibility, a sense of optimism, a sense of eagerness about the future that the present difficulties in Kosovo cannot begin to overshadow. And I think the country is clearly better off than it was six years ago.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-APR-1999 15:58:15.00

SUBJECT: FYI Tobacco & NGA

TO: J. Eric Gould (CN=J. Eric Gould/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:

Note from IGA

Bruce I've tried to reach Bryant Hall, given your conversation with Sen Graham, but have not heard back yet.

----- Forwarded by Cynthia A. Rice/OPD/EOP on 04/16/99

01:51 PM -----

William H. White Jr.

04/16/99 01:25:04 PM

Record Type: Record

To: Cynthia A. Rice/OPD/EOP, J. Eric Gould/OPD/EOP

cc: Fred DuVal/WHO/EOP, Todd A. Bledsoe/WHO/EOP

Subject: FYI Tobacco & NGA

From IGA's weekly report to POTUS.

TOBACCO

The NGA is aggressively lobbying to pass tobacco recoupment prevention legislation and has scheduled a press conference on Monday, April 19th with Senator Hutchison, Governor Rowland (R-CT), and representatives from the National Association of Attorneys General (NAAG) and the National Conference of State Legislatures (NCSL). At the press conference, they will release a 53 governor NGA letter, a 50 Attorney General letter, and a NCSL leadership letter.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-APR-1999 16:41:19.00

SUBJECT: LRM MNB49 - - REVISED EDUCATION Draft Bill on College Completion Challenge

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

TO: Pamula L. Simms (CN=Pamula L. Simms/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: William H. White Jr. (CN=William H. White Jr./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: Leslie S. Mustain (CN=Leslie S. Mustain/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

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

TO: Elena Kagan (CN=Elena Kagan/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: Jennifer S. Kron (CN=Jennifer S. Kron/OU=OMB/O=EOP@EOP [OMB])

READ:UNKNOWN

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

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

CC: justice.lrm (justice.lrm @ usdoj.gov @ inet [UNKNOWN]) (OA)
READ:UNKNOWN

TEXT:

LRM ID: MNB49
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, April 16, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution
below

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

OMB CONTACT: Melissa N. Benton

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

SUBJECT: REVISED EDUCATION Draft Bill on College Completion
Challenge Grant Program

DEADLINE: 2 p.m. Tuesday, April 20, 1999

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:

DISTRIBUTION LIST

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61-JUSTICE - Dennis Burke - (202) 514-2141

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Roselyn J. Rettman
Pamula L. Simms
Howard Dendurent

Daniel J. Chenok
Daniel I. Werfel
James J. Jukes
Janet R. Forsgren
Constance J. Bowers

LRM ID: MNB49 SUBJECT: REVISED EDUCATION Draft Bill on College
Completion Challenge Grant Program
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

- cccg416.doc
 - spklt416.doc
 - sbccccg.doc===== ATTACHMENT 1 =====
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\par Dear Mr. Speaker:}{\field{\*\fldinst {\fs24 PRIVATE }}{\*\datafield \bin28
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\par I am pleased to submit for your consideration the "College Completion Chal
lenge Grant Act of 1999", a legislative proposal that would assist institutions
of higher education to expand their efforts}{\b\fs24 }{\fs24 to increase the
rate at which low-income and other at-risk students complete baccalaureate degr
ee programs.
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\par

\par Students from low-income families are significantly more likely to leave a 4-year institution of higher education without a baccalaureate degree than are students from families with higher incomes. Only 44 percent of students from low-income families who were enrolled full-time during their first year of college complete a baccalaureate degree within five years. This completion rate is 24 percentage points lower than the 68 percent completion rate among students from upper-income families.

\par

\par In addition to economic disadvantage, a recent report by the National Center for Education Statistics, *Stopouts or Stayouts? Undergraduates Who Leave College in Their First Year*, concludes that there are a number of factors significantly associated with students dropping out of a four-year college or university. These factors include having a low- to failing-cumulative GPA (under 2.0); delaying entry into postsecondary education after graduating from high school; being less engaged with their academic program; working full time while enrolled; and being a first-generation college student. This legislative proposal would allow institutions of higher education to help mitigate those factors most significantly associated with the failure to complete baccalaureate degree programs.

\par }

\par Specifically, there are three different forms of services or assistance that an institution could provide under the proposed new College Completion Challenge Grant Program. An institution could implement an intensive summer program, develop strong student support services, provide direct grant aid to students, or a combination of these activities. Intensive summer programs could be provided only if the institution demonstrates in its application that it has a strong commitment to student retention through additional activities. Support services under the proposed new program could include peer tutoring, mentor programs, activities to assist students currently enrolled in a 2-year institution to secure admission and financial assistance in a 4-year program of postsecondary education, activities to assist students in securing admission and financial assistance for graduate and professional programs, assistance in course selection, and cultural events. If an institution chose to provide grants to students under the proposed new College Completion Challenge Grant Program, it would be required to do so in combination with at least one of the other two authorized activities and those grants would have to meet certain minimum amounts and would supplement other Federal grant assistance, such as Federal Pell Grants.

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\par While each institution would determine which combination of services and assistance to offer for its at risk students, the particular services and assistance that would be available under this proposal are designed to address the factors most significantly associated with the failure to complete baccalaureate degree programs. Support services and intensive summer programs would help to address the factors of the low GPA, less engagement with the academic program and first-generation college student status. Intensive summer programs offered for students entering their first year of postsecondary education would also help prevent students from delaying their entry into college. Finally, a substantial increase in grant aid would reduce some students' need to work full time while enrolled, and address some of the concerns of a first generation college student regarding student loan debt burden and the availability of adequate financial aid.

\par

\par Since low-income and at-risk students are most likely to leave a program of postsecondary education during the first two years, an institution would generally be required to focus

services and assistance on students in their first two years of postsecondary education. Although this program would require institutions to target students in their first two years of postsecondary education, an institution could serve students who have completed their first two years if it could demonstrate, on a case-by-case basis, that these students are at high risk of leaving without their baccalaureate degrees, and that it has already met the needs of its first- and second-year students.

\par

\par This legislative proposal would help to eliminate the discrepancy that currently exists in baccalaureate degree attainment rates for students of low- and high-income families by supporting the specific activities that research has shown to improve student retention for students at-risk of leaving a 4-year institution without a baccalaureate degree. It would build on the successes of TRIO's Student Support Services Program under section 402D of title IV of the Higher Education Act and student financial assistance programs by combining selected elements of each and narrowly focusing that combination of services and assistance on at-risk students in the early years of postsecondary education. It would also build on the successes of the participating institutions, requiring institutions to demonstrate a prior successful commitment to helping low-income and other at-risk students stay in school until they complete their baccalaureate degrees. I urge the speedy enactment of the "College Completion Challenge Grant Act of 1999" by Congress. It would help to ensure that all Americans not only have access to postsecondary education, but also the support necessary to ensure that they complete that education and receive their degrees.

\par

\par The Office of Management and Budget advises that there is no objection to the submission of this proposal to the Congress and that its adoption would be in accord with the program of the President.

\par \tab \tab \tab \tab \tab \tab Yours sincerely,

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\par \tab \tab \tab \tab \tab \tab Richard W. Riley

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A BILL

To assist institutions of higher education help at-risk students stay in school and complete their 4-year postsecondary academic programs.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, this Act may be cited as the "College Completion Challenge Grant Program of 1999

PROGRAM AUTHORIZED

SEC. 101. Subpart 2, Chapter A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1132a et seq.) is amended by adding at the end thereof the following new chapter:

"CHAPTER 4--COLLEGE COMPLETION CHALLENGE GRANT

PROGRAM

"FINDINGS

"SEC. 408A. Congress makes the following findings:

"(1) Students from low-income families are significantly more likely to leave a 4-year institution of higher education without a baccalaureate degree than are students with higher incomes.

"(2) Even among students with above average grades, low-income students are still more likely to leave a 4-year institution of higher education without a baccalaureate degree than are students with higher incomes, especially low-income students enrolled at private institutions.

"(3) This lack of persistence to completion of a baccalaureate degree continues to contribute to the gap in educational attainment and ultimate income levels

between disadvantaged students and their more affluent classmates.

"(4) While the focus of Federal student financial assistance and higher education programs has traditionally been to ensure access to postsecondary education, the Federal Government should expand its role in student financial assistance programs for postsecondary education to address this lack of persistence to baccalaureate degree completion.

"(5) The amount of grant assistance provided to postsecondary students is critical to their persistence and degree attainment.

"(6) In addition to economic disadvantage, the following factors significantly contribute to a student dropping out of a 4-year institution of higher education:

"(A) a delayed entry into postsecondary education after graduating from high school.

"(B) a low grade point average.

"(C) working full-time while enrolled.

"(D) being a first-generation college student.

"(E) being less engaged with an academic program.

"(7) Most students, particularly those at the greatest risk of leaving their programs of study without a baccalaureate degree, leave during the first two years of study.

"(8) At-risk students that receive targeted support services persist to degree completion at higher rates than at-risk students who do not receive such services.

"(9) Educators interested in student retention have long viewed intensive summer programs for incoming first-year students as very important in helping students

from disadvantaged backgrounds become acclimated to college life and in improving retention.

"PURPOSE AND PROGRAM AUTHORITY

"SEC. 408B. (a) PURPOSE.--The purpose of this program is to assist institutions of higher education to help students who are at risk of ending their postsecondary education prior to obtaining baccalaureate degrees, particularly those who are economically disadvantaged, to stay in school until they complete those degrees.

"(b) PROGRAM AUTHORIZED.-- From funds appropriated pursuant to section 408G for each fiscal year, the Secretary shall, in accordance with the requirements of this chapter, award competitive grants to eligible institutions to enable them to pay the Federal share of the costs of carrying out programs designed to meet the purpose of this chapter.

"(c) DURATION OF GRANT.--A grant made under this chapter shall be awarded for a period of 3 years.

"INSTITUTIONAL ELIGIBILITY

"SEC. 408C. (a) IN GENERAL.--An institution of higher education is eligible to receive a grant under this chapter if the institution--

"(1) meets the requirements of section 102; and

"(2) awards baccalaureate degrees, or, subject to subsection (b)(1), associate degrees.

"(b) LIMITATIONS.--

"(1) ASSOCIATE DEGREE-GRANTING INSTITUTIONS.--An eligible applicant that awards only associate degrees may apply for a grant under this chapter

only as part of a consortium that includes one or more institutions of higher education that awards baccalaureate degrees.

"(2) MULTIPLE GRANTS.--An institution that receives a grant under this chapter may compete to receive a subsequent grant, but may only receive a maximum of two grants under this chapter.

"APPLICATION PROCESS

"SEC. 408D. (a)(1) IN GENERAL.--Each eligible applicant that desires a grant under this chapter shall submit to the Secretary an application for that grant at such time and containing such information as the Secretary may prescribe.

"(2) DEMONSTRATION OF PRIOR COMMITMENT.--In order to receive a grant under this chapter, an applicant shall demonstrate in its application, to the satisfaction of the Secretary, its successful prior commitment to the purposes of this chapter, through the prior support of at least one of the activities described in section 408E(a).

"(b) MATCHING REQUIREMENT.--(1) IN GENERAL.--The Federal share of the cost of programs assisted under this chapter shall not be more than 50 percent, and the matching funds shall be from non-Federal sources.

"(2) The Secretary may establish in regulations the matching requirement applicable to a consortium of institutions in which some of the institutions are eligible for a waiver of the matching requirement pursuant to section 395 or section 515.

"(c) COORDINATION REQUIREMENT.--Each eligible institution shall ensure that the activities provided under this chapter are, to the extent practicable, coordinated with, complement, and enhance related services under other Federal and non-Federal programs, and do not duplicate the services already provided at that institution.

"(d) SUPPLEMENT, NOT SUPPLANT.--Funds under this chapter shall be used

to supplement, and not supplant, non-Federal funds expended for existing programs.

"USE OF FUNDS

"Sec. 408E. AUTHORIZED ACTIVITIES.--(a) IN GENERAL.--An eligible institution that receives a grant under this chapter shall, except as provided in subsection (b), use the grant to provide services or assistance to students at risk of leaving their programs of study without baccalaureate degrees, particularly economically disadvantaged students, by carrying out one or more of the following:

"(1) Implementing an intensive summer program for incoming first-year students (or students entering their second or third year of postsecondary education if the institution can demonstrate that it is addressing the needs of first-year students and that a summer program could help retention of second- or third-year students at risk of dropping out), provided that the institution demonstrates in its application that it has a strong commitment to student retention through additional activities.

"(2) Developing a strong student support service program, targeted to students in their first two years of postsecondary education, that includes activities such as:

"(A) peer tutoring;

"(B) mentoring programs involving faculty or upper class students;

"(C) activities to assist students currently enrolled in a 2-year institution to secure admission and financial assistance in a 4-year program of postsecondary education;

"(D) activities to assist students in securing admission and

financial assistance for enrollment in graduate and professional programs;

"(E) assistance in course selection; and

"(F) cultural events.

"(3) Providing grants to students in their first two years of postsecondary education, in an amount not less than required under subsection (c), except that a recipient that provides grants under this paragraph shall also provide services under paragraphs (1) or (2), or both.

"(b) SPECIAL RULE.--A recipient of a grant under this chapter may serve students who have completed their first two years of college if it can demonstrate, on a case by case basis, that these students are at high risk of dropping out, and that it has already met the needs of its first- and second-year students.

"(c) GRANT SIZE.--(1) IN GENERAL.--The Secretary may, by regulation, establish minimum student grant award levels for purposes of subsection (a)(3), taking into account such factors as the different costs of attendance associated with public and private institutions.

"(2) EXCEPTION.--If the Secretary does not establish minimum student grant award levels under paragraph (1), or if an institution wishes to provide grants under subsection (a)(3) in an amount less than the minimum set by the Secretary, the institution shall demonstrate in its application, to the satisfaction of the Secretary, that the size of the grants it will provide is appropriate and likely to have a significant effect on the persistence problem at that institution.

"RELATION TO OTHER STUDENT FINANCIAL ASSISTANCE

"Sec. 408F. RELATION TO OTHER FINANCIAL ASSISTANCE.--A grant provided to a student by an eligible institution from an award made under this chapter

shall not be considered in determining that student's need for grant or work assistance under this title, except that in no case shall the total amount of student financial assistance awarded to a student under this title exceed that student's cost of attendance, as defined by section 472.

"AUTHORIZATION OF APPROPRIATIONS

"Sec. 408G. AUTHORIZATION OF APPROPRIATIONS.—(a) IN GENERAL.--

There are authorized to be appropriated to carry out this chapter \$35,000,000 for fiscal year 2000, and such sums as may be necessary for each of the 4 succeeding fiscal years.

"(b) SPECIAL RULE.-- From the amounts appropriated under subsection (a) for any fiscal year, the Secretary may reserve up to 1 percent of such amount for that fiscal year in order to carry out an evaluation of the program authorized by this chapter."

EFFECTIVE DATE

SEC. 102. The amendments made by section 101 shall be effective on October 1, 1999.

THE COLLEGE COMPLETION ACT OF 1999
Section-by-Section Analysis

Section 101. Section 101 of the bill would amend subpart 2, Part A of title IV of the Higher Education Act of 1965 (20 U.S.C. 1132a et seq., hereinafter referred to as the Act) by adding a new chapter 4, authorizing the College Completion Challenge Grant Program.

Proposed new section 408A of the Act would set out the Congressional findings for the new chapter. Students from low-income families are significantly more likely to leave a 4-year institution of higher education without a baccalaureate degree than are students with higher incomes. Specifically, the baccalaureate degree attainment rate for full-time students from families from the bottom income quartile was 23.9 percentage points less than the rate for full-time students from families from the top income quartile (44.5% vs. 68.4%).

Even among students with above average grades, low-income students are still more likely to leave a 4-year institution of higher education without a baccalaureate degree than are students with higher incomes, especially at private institutions. Contributing to the gap in educational attainment between disadvantaged students and their more affluent classmates is the fact that the focus of Federal student financial assistance and higher education programs has traditionally been to ensure access to postsecondary education, and not on the lack of persistence to a baccalaureate degree. The amount of grant assistance provided to postsecondary students is also critical to their persistence and degree attainment. Through this bill, the Federal Government would expand its role in student financial assistance programs for postsecondary education to address this lack of persistence to baccalaureate degree completion.

In addition to economic disadvantage, a number of other factors contribute significantly to a student dropping out of a 4-year institution of higher education. Those factors include: a delayed entry into postsecondary education after graduating from high school; a low grade point average; working full-time while enrolled; being a first-generation college student; and being less engaged with an academic program. Grants to institutions under this program would assist these institutions in providing services that could mitigate the effects of these factors on a student's likelihood of dropping out of a 4-year institution of higher education.

Further, most students, particularly those at the greatest risk of leaving their programs of study without a baccalaureate degree, leave during the first two years of study. Nearly half of all low-income students will have dropped out of

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their programs of study by the end of the second year, as compared to only 27 percent of higher income students.

Additionally, at-risk students that receive targeted support services persist to degree completion at higher rates than do at-risk students who do not receive such services. The Department's on-going evaluation of the Student Support Services program has shown that support services do make a significant difference on three separate student outcomes - grades, credits earned and retention. The effects, although not large, usually persist over three years. Students' grade point averages were increased by a mean of 0.15 in the first year, 0.11 in the second year, and 0.11 in the first three years combined. The number of credits earned was increased by a mean of 1.25 in first year, 0.79 in the second year, 0.71 in the third year, and 2.25 in the first three years combined. Retention at the same institution to the second year was increased by 7 percent, and by 9 percent for retention to the third year. Retention to the third year at any institution of higher education was increased by 3 percent. These results could be improved by combining these kinds of services with the other services that would be offered by this program.

Finally, educators interested in student retention have long viewed intensive summer programs for incoming first-year students as very important in helping students from disadvantaged backgrounds become acclimated to college life and in improving retention. This program would provide, at the most valuable time, the kinds of services most likely to achieve retention for those students most at risk of leaving their programs of study without their baccalaureate degrees.

Proposed new section 408B of the Act would establish the program's statement of purpose and program authority. Under proposed new section 408B(a), the purpose of this chapter would be to assist institutions of higher education to help students who are at risk of ending their postsecondary education prior to obtaining a baccalaureate degree, particularly those who are economically disadvantaged, to stay in school until they complete their baccalaureate degrees. Proposed new section 408B(b) would authorize the Secretary, from funds appropriated for each fiscal year and in accordance with the requirements of this chapter, to award competitive grants to eligible institutions to enable them to pay the Federal share of the costs of carrying out programs designed to meet the purpose stated in proposed new section 408B(a).

Proposed new section 408C of the Act would establish the institutional eligibility requirements for receiving a grant under this chapter. Section 408C(a) would provide that eligible applicants for grants under this chapter would be institutions of higher education that meet the requirements of section 102 of the Act, the definition of an institution of higher education used for purposes of title IV, and that award baccalaureate or associate degrees. An institution that

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awards only associate degrees, however, could apply for a grant under this chapter only if it applied as part of a consortium that included one or more institutions of higher education that awarded baccalaureate degrees. Proposed new section 408C would also establish the requirement that an institution that receives a grant under this chapter may receive no more than two such grants.

Proposed new section 408D of the Act would establish the application process requirements. Proposed new section 408D(a) would provide that an applicant that desires a grant under this chapter must submit to the Secretary an application at such time and containing such information as the Secretary may prescribe. Proposed new section 408D would also require that an applicant demonstrate in its application, to the satisfaction of the Secretary, its prior successful commitment to assisting institutions of higher education to help students who are at risk of ending their postsecondary education prior to obtaining a baccalaureate degree stay in school until they complete those degrees. While students are primarily responsible for their own success, institutions have a responsibility to assist them, particularly those students at-risk of failing to complete their baccalaureate degrees. The new program is therefore intended to assist institutions that have made efforts to increase the retention of students.

Proposed new section 408D(b) would describe the matching requirement for institutions that receive a grant under this chapter. Proposed new section 408D(b)(1) provides that the Federal share of the cost of the program must be not more than 50%, and the matching funds must be from non-Federal sources. However, the Secretary intends to use his authority under section 395 of the Act to waive this matching requirement for institutions eligible for assistance under Part A or B of title III, and under section 515 of the Act to waive the matching requirement for institutions eligible for assistance under title V—Historically Black Colleges and Universities, Hispanic-serving institutions, and other institutions of higher education that have relatively low educational and general expenditures and serve low-income students. The Secretary also intends to regulate on the matching requirement, as it would apply to a consortium of institutions in which only some of the institutions would be eligible for the waiver of the matching requirement.

Proposed new section 408D(c) of the Act would require institutions applying for a grant to ensure that the activities it would provide if it received a grant under this chapter would be coordinated with, complement, and enhance related services under other programs, and would not duplicate services already provided at that institution. Proposed new section 408D(d) of the Act would provide that funds under this chapter would have to be used to supplement, and not supplant, non-Federal funds expended for existing programs.

Proposed new section 408E of the Act details the authorized uses of funds received under this chapter. Proposed new section 408E(a) would require

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an institution, except as provided in subsection (b), to use a grant to provide services or assistance to students at risk of leaving their programs of study without baccalaureate degrees, particularly economically disadvantaged students to carry out one or more of three types of allowable activities. The three types of activities for which institutions could use funds received under this chapter would be: intensive summer programs, student support services, and grants for students. While summer intensive programs have been shown to be effective in increasing student persistence, they are only effective when the institution is committed to student retention. Therefore, institutions could implement an intensive summer program for incoming first-year students, (or students entering their second or third year of postsecondary education if the institution can demonstrate that it is addressing the needs of its first-year students and that a summer program could help retention of second- or third-year students at risk of dropping out), but could do so only if they could demonstrate a strong commitment to student retention through other activities.

Under proposed new section 408E(a)(2), an institution could also use funds under this chapter to develop a strong student support service program, targeted to students in their first two years of postsecondary education. This could include activities such as peer tutoring; mentoring by faculty or upper class students; activities to assist students currently enrolled in a 2-year institution secure admission and financial assistance in a 4-year program of postsecondary education; activities to assist students in securing admission and financial assistance for enrollment in graduate and professional programs; course selection assistance; and cultural events.

Finally, proposed new section 408E(a)(3) would provide that institutions could use funds received under this chapter to provide grants to students in their first two years of postsecondary education, but only if it also provided an intensive summer program for incoming first-year students, or developed a student support service program, targeted to students in their first two years of postsecondary education, or both. The goal of the program is not simply to create another Federal grant program. The grant aid provided under the new program would be in the context of specific efforts to increase student success.

Although this program would require institutions to target services to students in their first two years of postsecondary education, proposed new section 408E(b) would allow an institution to serve students who have completed their first two years only if it could demonstrate, on a case-by-case basis, that these students are at high risk of leaving their programs of study without baccalaureate degrees, and that it has already met the needs of its first- and second-year students. While most students leave during the first two years of study, some do leave during the subsequent years. For example, many students fail to make the transition from a 2-year institution to a 4-year institution. This

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program could allow institutions to provide services to those students even after completing two years of postsecondary education.

Proposed new section 408E(c)(1) of the Act would provide the Secretary with the authority to set, by regulation, a minimum student grant award level for those institutions that provide grants to students. In setting a minimum student grant award level, the Secretary would take into account such factors as the different costs of attendance associated with public and private institutions. If the Secretary did not establish a minimum student grant award, or if an institution wanted to provide a grants below the minimum set by the Secretary, proposed new section 408D(c)(2) would require the institution to demonstrate in its application, to the satisfaction of the Secretary, that the size of the grants it would provide were appropriate and likely to have a significant effect on the persistence problem at that institution.

Proposed new section 408F of the Act would describe how a grant to a student would affect the calculation of that student's need for other title IV assistance. Under proposed new section 408F, a grant provided to a student by an eligible institution from an award made under this chapter would not be considered in determining that student's need for grant, or work assistance under title IV of the Act. However, the total amount of financial assistance awarded to a student under title IV, including a grant provided under this chapter, could not exceed that student's cost of attendance, as defined by section 472 of the Act.

Proposed new section 408G(a) of the Act would authorize the appropriation of \$35,000,000 to carry out this program for fiscal year 2000, and such sums as may be necessary for each of the 4 succeeding fiscal years. Proposed new section 408G(b) of the Act would authorize the Secretary to reserve up to 1% of the appropriation for that fiscal year in order to carry out an evaluation of the program authorized by this chapter.

Section 102. Section 102 of the bill would state that this bill is effective on October 1, 1999.

DRAFT

April 16, 1999

MEMORANDUM FOR THE PRESIDENT

FROM:

SUBJECT: Update on Requirement for Ending Social Promotion in ESEA

A central feature of the Education Accountability Act you announced in the State of the Union is a requirement that schools end social promotion. In our draft ESEA proposal, this has been operationalized as a requirement that states and school district receiving ESEA funds phase in promotion standards, at key transition points at the elementary, middle and high school level, over four years from the enactment of ESEA.

We have encountered stiff opposition from the civil rights community to this proposal. Both DPC and Secretary Riley have had a series of meetings over the past few weeks with Wade Henderson and others in the Leadership Conference for Civil Rights, Hugh Price, and Marion Wright Edelman. While there are some nuanced differences in their views, in general they unanimously oppose a requirement to end social promotion on four grounds. First, they believe it will lead to an increase in retention rates among disadvantaged students, resulting in increased drop out rates and lower achievement. Second, they believe it is unfair to hold students accountable for their performance, until school systems provide greater opportunities to learn for the most disadvantaged students, an objective many school systems will not fully reach within four years. Third, they distrust that we will be able to enforce other provisions in ESEA that must be in place in order for a promotion policy to work, such as requirements that states and districts provide qualified teachers, early intervention and extra help to students who need it. As a result, they fear this policy will encourage and speed the implementation of promotion policies without the necessary supports. Finally, they argue that if states and local communities in fact do provide students with the necessary support, students would meet state academic standards and the practice of social promotion would effectively be ended, thereby obviating the need for a policy to end it.

The civil rights community otherwise strongly supports our ESEA proposal, but is prepared to launch a major attack on our social promotion requirement. They are very likely to gain strong support from the majority of the Congressional Black and Hispanic Caucuses, and could easily recreate the left-right political coalition that successfully opposed our national test proposal. If we transmit a proposal that is strongly opposed by the civil rights groups, we will make it very difficult for Rep. Clay and Senator Kennedy to introduce our proposal. This dynamic will make it impossible to unite Democrats behind our overall ESEA proposal and, as a result, this Congress may be less likely to pass a version of ESEA that reflects our priorities, or even to pass one at all.

We have been working to find a compromise proposal that would respond to the legitimate concerns of the civil rights groups while remaining true to the intent of your State of the Union announcement. Our objective is to find a solution that will reduce the objections of the civil rights groups and convince Kennedy and Clay that we have made reasonable compromises that merit their support, even if the civil rights groups do not support it.

At Secretary Riley's request, Senator Kennedy is working over the next several days to help us find a middle ground with the civil rights groups. We are working with his staff to pursue the options described below as possible grounds for a compromise proposal:

Option 1: Focus Promotion Requirement on Reading in the Early Grades

This approach focuses only one of the three transition points, and emphasizes the implementation of a comprehensive approach to preparing students to meet promotion standards.

Fourth Grade Promotion Standard: States and school districts would be required to ensure that students are proficient in reading at a key point in elementary school, most likely before being promoted to 4th grade. As in our original policy, this option would require States to put in place promotion policies aligned to State standards, use multiple measures to determine promotion, and require school districts to put supports in place such as early intervention, smaller class-sizes, qualified teachers, and extended learning time. Districts would be required to establish a policy to end social promotion in elementary school and fully implement the support strategies and policy within four years.

Strengthened Accountability for Schools: We would also strengthen the school accountability requirements by requiring school report cards to include data on student retention rates in addition to student achievement. We would need to figure out a way to determine social promotion rates (since no state or district would admit to the practice), most likely by looking at the percent of students at a grade level performing below a basic standard of proficiency and assuming that these students have been promoted without meeting standards. Those schools with high retention rates and/or social promotion rates (if we can overcome the measurement challenges) would be subject to State intervention.

Development of Alternatives to Retention: Further, we would incorporate a new demonstration program, which would begin in the first year after enactment, to help high poverty districts develop and demonstrate effective alternatives to both retention and social promotion. For example, Boston is creating a transition program for students who have not met the 4th grade promotion requirements, through an 18 month program that involves summer school, intensive help during the next school year to help students catch up and begin 5th grade work, additional summer school and then reintegration into their original cohort in the 6th grade. This demonstration program would help develop, evaluate and disseminate other models for use at the elementary, middle and high school level.

This more focused approach reflects and builds on the investments we have been making to strengthen learning opportunities in the early grades, including class size reduction, teacher training and tutoring for early reading, expanded investments in Head Start, and after-school programs. A growing number of states and districts are implementing their own early reading initiatives. Consequently, the timetable for phasing in supports and promotion requirements in four years is more feasible at the early grades than in higher grades.

Option 2: Delay Implementation of Promotion Requirements

This approach would retain a requirement that states adopt promotion requirements in key transition points at the elementary, middle and high school levels, but it would delay implementation. Instead of requiring that promotion standards be implemented within four years, we would require that states adopt policies to end social promotion within four years, while the implementation of the promotion standards themselves would be phased in over an additional 2-3 years. This additional time would better enable states and districts to phase in the supports that students need. In particular, it would enable states to first meet our requirement to phase out the use of unqualified teachers (within four years) and then phase in the promotion standards over several additional years. We could even consider more directly addressing the civil rights groups concern that inputs and supports must precede accountability for students by explicitly making required implementation of the promotion standards contingent on first meeting the requirement to phase out the use of unqualified teachers,

This approach could also be coupled with the additional school accountability and demonstration provisions in Option 1.

Option 3: Focus on Performance Instead of Policy

The fundamental approach here is to "end social promotion" by rewarding those states that effectively reduce the incidence of social promotion and retention, and sanction those states that increase the frequency of either or both of these practices. Instead of requiring states to adopt promotion policies, we would require them to collect data and report on retention rates, promotion rates, and academic performance. As indicated above, we would need to figure out a way to determine social promotion rates (since no state or district would admit to the practice), most likely by looking at the percent of students at a grade level

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performing below a basic standard of proficiency, and assuming that these are students who have been promoted without meeting standards. Once establishing a baseline of retention and social promotion rates for each state, we would provide financial rewards to those that increased on-time promotion and reduced retention rates, and financial sanctions to those that increase retention and or social promotion.

This approach could also be coupled with the additional school accountability and demonstration provisions in Option 1. Because this options does not directly require students to meet promotion standards, it is likely to be the one most acceptable to the civil rights groups (and had initially been raised by them). However, the measurement issues it poses are novel and complex, and we have some concerns about the technical feasibility of this approach.

We are tentatively scheduled to meet with Kennedy's staff and representatives of the civil rights groups early next week, and will continue to work through that process as long as it holds the promise of reaching an acceptable compromise. However, if we are unable to convince Kennedy and Clay to support a proposal based on one of these options, we believe we will then face a difficult choice. We will either have to send up two bills, our ESEA proposal that Kennedy and Clay can introduce and Democrats can rally around, as well as a separate bill with the social promotion requirement. Alternatively, we would have to drop any effort to require an end to social promotion, and instead use your bully pulpit to encourage the trend already underway at the state and local level.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-APR-1999 17:41:00.00

SUBJECT: Time Change -- Mtg with Kennedy's Staff

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

CC: Iratha H. Waters (CN=Iratha H. Waters/OU=OMB/O=EOP @ EOP [OMB])

READ:UNKNOWN

TEXT:

Monday's meeting with Kennedy's staff is now scheduled for 11:00 a.m., due to conflicts with schedules and a request from their staff. The meeting room is still 644 Dirksen. Sorry for any inconvenience.