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**[04/23/1999-04/27/1999]**

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

CREATION DATE/TIME:23-APR-1999 11:16:18.00

SUBJECT: NYT story today

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

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

TEXT:

I didn't call her for this purpose, but I gave Kit Seelye a hard time about her story today. She was talking before I even had a chance about how irritated hse was with her story being cut in half without her being consulted. She said she had a lot more in there about what we've done on this issue as well as a number of interesting quotes from him that were knocked out. So I don't know if our complaint is necessarily with her personally.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: James J. Jukes ( CN=James J. Jukes/OU=OMB/O=EOP [ OMB ] )

CREATION DATE/TIME:23-APR-1999 17:41:14.00

SUBJECT: LRM MDH60 - - LABOR Testimony on LABOR Draft Bill on Welfare-To-Work Grant

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

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

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TO: llr@do.treas.gov ( llr@do.treas.gov @ inet [ UNKNOWN ] )  
READ:UNKNOWN

TO: ocl ( ocl @ ios.doi.gov @ inet [ UNKNOWN ] )  
READ:UNKNOWN

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TO: HUD LRM@hud.gov ( HUD LRM@hud.gov @ inet [ UNKNOWN ] )  
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TO: Melinda D. Haskins ( CN=Melinda D. Haskins/OU=OMB/O=EOP@EOP [ OMB ] )  
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TEXT:

Please direct any comments on the attached testimony (roughly 16 pages) to Melinda Haskins by 1:00 Monday. Thank you.  
EOP addressees will not receive a paper copy of this document.

- fathersf.2

----- Forwarded by James J. Jukes/OMB/EOP on 04/23/99  
05:33 PM -----

LRM ID: MDH60  
EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
Washington, D.C. 20503-0001

Friday, April 23, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution  
below  
FROM: Janet R. Forsgren (for) Assistant Director for  
Legislative Reference  
OMB CONTACT: Melinda D. Haskins  
PHONE: (202)395-3923 FAX: (202)395-6148  
SUBJECT: LABOR Testimony on LABOR Draft Bill on Welfare-To-Work  
Grant Extension

DEADLINE: 1 P.M. Monday, April 26, 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: Attached is the DOL (Uhalde) testimony for the Tuesday, April  
27th, HWM hearing on "fatherhood initiatives."

This deadline is firm. If we do not hear from you by the comment  
deadline, we will assume that you have no objection.

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 Elizabeth Gore

LRM ID: MDH60 SUBJECT: LABOR Testimony on LABOR Draft Bill on  
 Welfare-To-Work Grant Extension  
 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: Melinda D. Haskins Phone: 395-3923 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-----  
ATT CREATION TIME/DATE: 0 00:00:00.00

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DRAFT 4/23/99

TESTIMONY OF RAYMOND J. UHALDE  
DEPUTY ASSISTANT SECRETARY OF LABOR  
FOR EMPLOYMENT AND TRAINING  
BEFORE THE  
SUBCOMMITTEE ON HUMAN RESOURCES  
THE COMMITTEE ON WAYS AND MEANS  
UNITED STATES HOUSE OF REPRESENTATIVES

April 27, 1999

Madam Chairman and Members of the Subcommittee:

Thank you for the opportunity to appear before you today to discuss fatherhood and the Administration's Welfare-to-Work reauthorization proposal. Fatherhood is an issue that has been important to me for a long time, both in a personal and professional sense. For welfare reform to succeed, Secretary Herman recognized early on that only a part of the job is to promote work among welfare recipients. We must also strengthen families. The well-being and life success of children on welfare requires that we find ways to bring fathers back into their children's lives. This means, at least, financial support of their children. But it also means the emotional, nurturing and coaching support that fathers should provide to their children.

Single parents need help to achieve long-term self-sufficiency. Fathers who are absent from the home are an untapped resource for helping to provide this help, and here I am referring to far more than their financial contributions.

Welfare to Work Program

The Welfare to Work program is a current initiative that serves non-custodial parents. The Welfare to Work program was enacted as part of the Balanced Budget Act of 1997 to provide employment-related services to assist the hardest-to-employ welfare recipients, and noncustodial parents of children on welfare, to obtain and retain unsubsidized employment. The

program is administered by the Department of Labor and the employment-related services are provided through the State and local workforce investment system established under the Workforce Investment Act, which provides access to employment and training services for all Americans, including low-income workers, dislocated workers, and other adults and youth. The linkages between the Welfare to Work program and the broader workforce investment system, with that system's information, services, and connections to employers, is intended to maximize the opportunities for hard-to-employ recipients and noncustodial parents to find and keep jobs.

The Welfare to Work program is a key component of the overall welfare reform effort. While there has been a significant decline in welfare caseloads, many of the individuals remaining on welfare are long-term recipients who face significant barriers to employment. As time limits on TANF assistance begin to take effect, these individuals are in particular need of targeted services linking them to the labor market that the Welfare to Work program provides. In addition, the Welfare to Work program provides employment-related services to noncustodial parents to enable them to increase their contributions to the well-being of their children.

#### Demographic and Economic Characteristics

As background, I would like to share with you a demographic profile of low-income non-custodial fathers. In 1990 the Survey of Income and Program Participation indicated that there were 3.4 million noncustodial fathers with incomes below 200 percent of poverty. These are men who are in the prime of their working lives with little or no work history and who are lacking the skills and education to succeed in a technologically advanced and competitive labor market which demands skilled workers. Even in today's vigorous economy, with the lowest unemployment rate and the fewest people on welfare in decades, these men face severe barriers

to stable jobs with rising wages.

While 43% of these men ranged in age from 25 to 34, only 16% are under 25. Most of the men either worked less than full-time (39%), or were absent from the labor force or unemployed (29%). Less than a third of the men worked full time year round. Statistics paint a portrait of men with sporadic and part-time work, living on the margins of society, unable to support families. When they do work their wages are low, averaging slightly better than the current minimum wage. These fathers have scarce financial resources to support themselves and their children.

The labor market problems of poor noncustodial fathers are compounded by a lack of education credentials; approximately 43% of them are high school dropouts. The labor market in the United States has gone through rapid technological changes in the last 25 years. Most jobs now require more social, cognitive and technical skills than in the past. This is an era of deteriorating labor market prospects for individuals with limited skills and education. The past two decades have brought real declines in the wages for such individuals.

The poor labor market prospects of these men affect families and neighborhoods. At least three fourths of these fathers have been arrested or have on going legal problems. And 46% of them have been convicted of a crime. Research indicates that once a young man has been incarcerated, his employment and earnings are substantially reduced for many years to come and if you are in jail you are not likely to be supporting your family.

Many low income noncustodial fathers live in central cities that are distant both physically and psychologically from the jobs in the suburbs. Discrimination in employment may also complicate the employment prospects for minority noncustodial fathers. Noncustodial

fathers are disproportionately minority; 38% are African-American and 19% are Hispanic. Over half of these fathers have never married the mothers of their children. The numbers are daunting, almost two million minority men live apart from their children and are not working full time, year round.

Noncustodial parents also lack access to social networks that can be critical in locating employment. A large fraction of jobs is filled by informal recruitment among employers who seek referrals from their current employees and other acquaintances. Many noncustodial fathers are not a part of these social networks, which can greatly enhance employment prospects.

#### Department of Labor Demonstration Projects

The Department of Labor has had a long-standing interest in improving the employment and earnings of low income fathers. We have participated in two demonstration projects focused on young unwed fathers or non-custodial parents: the Public Private Ventures Young Unwed Fathers Demonstration and the Parent's Fair Share Demonstration. We are now participating in the Partners for Fragile Families Demonstration through our Welfare to Work competitive grants program.

Improving the employment prospects of low income noncustodial fathers is difficult, as we learned from the Parents' Fair Share Demonstration. The evaluation of the Parents' Fair Share Demonstration found that child support payments were increased through programmatic intervention. These payments came mostly from men who were already working but not paying child support before participating in the program. This was encouraging news. The discouraging finding was that the fathers participating in the Parents' Fair Share Demonstration did not improve their employment and earnings. Unfortunately, the original program design for

the Parents' Fair Share Demonstration, which included an intensive high support on-the-job training model, was never implemented. This was, in part, due to operational difficulties between the child support and employment and training systems, and, in part, due to reluctance of employers to participate. Recent changes in the workforce and child support systems, and the improved economy, would likely enhance the prospects for successfully implementing the high support on-the-job-training model.

There is evidence from evaluations of employment and training programs that job training can be effective in serving highly at-risk youth likely to be unwed fathers. The JOBSTART demonstration attempted to replicate the successes of Job Corps in serving severely disadvantaged high school dropouts in less intensive nonresidential settings. The Center for Employment Training (CET) site in the JOBSTART evaluation was 50 percent male, and this site raised the earnings of participants by \$3,000 a year over the control group, during the last two years of a four year follow-up. The JOBSTART demonstration overall raised the earnings of males with prior arrest records by \$1,500 during the last year of follow up. In addition, the National JTPA Study also found positive results for adult males receiving services under JTPA. On-the-job training seemed particularly effective in assisting men, resulting in earnings gains of over \$2,500 over the follow-up period.

The Welfare to Work Grants Program is making a sizeable investment in the future economic well being of non-custodial individuals and their families. Expected dividends include reduced child support arrearage and welfare dependency, and an increase in tax paying individuals capable of supporting their families.

We are trying to use the Welfare to Work grants to fund a range of activities that are

designed to move low income fathers into jobs, with an emphasis on jobs that have the potential for increased earnings. The Welfare to Work funds can be used broadly for employment-related activities including: wage subsidies in the public or private sector; on-the-job training; job readiness; job placement services; post-employment services; job vouchers for job readiness; placement or post placement services; community service or work experience; job retention services and supportive services.

The Department of Labor announced round 1 Welfare to Work competitive grant awards on May 27, 1998; 8 of 51 grants had a substantial focus on serving noncustodial parents. Most of these grants planned for at least 25% of program participants to be noncustodial parents, and two planned to serve exclusively noncustodial parents. Of these, five projects had specific services and strategies targeted to the needs and barriers facing noncustodial parents. These services included legal services to help participants be more attractive to employers, peer support groups, emphasis on life skills, integrity and family responsibility, and outreach and recruitment through the courts system. Two of these grants planned to build on past experience in serving hard-to-employ groups such as the homeless and disabled individuals in providing supported work environments for noncustodial parents.

Round 2 Welfare to Work competitive grants were awarded in November 1998; 12 of 75 competitive grants proposed to serve at least 30% noncustodial parents. Two of these proposed to serve exclusively noncustodial parents. These grants total just over \$39 million awarded by the Department to meet the needs of noncustodial parents. In reviewing Round Two grants oriented towards serving noncustodial parents, certain themes in service strategies became apparent. These grant proposals tended to emphasize:

- 1) commitment to family and fatherhood, combined with parenting skills training;
- 2) job readiness, stressing positive attitudinal change (workplace behavior, employer expectations, dress, interpersonal skills, interviewing skills, job search techniques, coping with stress, anger management, etc);
- 3) service to address barriers associated with substance abuse and criminal record;
- 4) intensive job retention and supportive services including case management, coaching, and peer support activities; and
- 5) strategies to recruit noncustodial parents, especially working with the court system and child support enforcement agencies.

The Department plans to announce Round 3 Competitive Grants in late summer 1999. This round identified noncustodial parents as one of five targeted populations. Proposals serving this population are eligible for 10 bonus points in round 3.

Some examples of what Welfare to Work grants are funding for fathers include:

Institute for Responsible Fathers

The Institute for Responsible Fatherhood and Family Revitalization, located in Washington, D.C., provides direct services to low income, non-custodial fathers. The program's goal is to "recapture" the responsible father figure and bring him back into the family structure to provide leadership, economic and social support, love and nurturing. Services provided include: technology management and communication, employer connection, a "people to jobs" transportation network, car donations and repairs and automotive training.

Los Angeles County Private Industry Council

Los Angeles County's Noncustodial Parent to Work (NCPtW) Project will assist

long-term TANF recipients end their welfare dependency by increasing child support payments from 1,625 noncustodial parents of TANF supported children. To do so, the project plans to help unemployed noncustodial parents find unsubsidized employment, and help underemployed noncustodial parents increase their earnings -- enabling them to pay more child support.

Innovative features of this project include developing both parents' capacity to financially support their children; bringing together a wide range of public and private agencies; addressing noncustodial parents' legal issues; providing noncustodial parents with access to information concerning child support; and providing peer support groups to work to change noncustodial parents' attitudes about child support and child rearing.

#### DeKalb Economic Opportunity Authority

This project will be conducted as an integral part of the DeKalb Workforce Center, which is the county's state-of-the-art One-Stop center. The program will be tied into the County's network of five Family Resource Centers, three public housing sites and two Head Start/Family Development Centers. These centers will be important for recruiting and are located in DeKalb's most impoverished communities.

A range of services will be provided to assist non-custodial parents in retaining employment and supporting their children. This project is an example of how One-Stop centers can be utilized to provide services. The specific services include: assessment (including commitment to responsible fatherhood); substance abuse treatment; legal assistance; job readiness and work maturity (including attitude and behavioral issues, workplace behavior, employer expectations, dress, interpersonal skills, anger management, interviewing skills, job search techniques, and coping with stress); parenting skills; case management and job coaching;

post-placement training (including literacy and GED preparation, occupational skills training); ongoing transitional support (peer support, job clubs, and case management).

#### City of Minneapolis

The Fostering Actions To Help Earning and Responsibility (FATHER) Program focuses on achieving self-sufficiency for noncustodial fathers in Northside, Camden, Phillips, Central and Powderhorn, Minnesota. The program is an innovative attempt to integrate both family and employment services for noncustodial fathers. Participants will have access to job counselors, a database of job openings and transportation that will help individuals from the city reach jobs in the suburbs. Additionally, child support enforcement officials will work to create a flexible child support payment plan and encourage fathers to develop and maintain strong emotional bonds with their children.

#### Private Industry Council of Milwaukee County

Welfare to Work Milwaukee is a collaborative project of the Private Industry Council of Milwaukee County and the five local agencies responsible for the implementation of Wisconsin Works in the county's six regions. The project addresses the long-term needs of participants, including noncustodial parents whose legal problems combined with poor academic and work skills bar them from sustained employment. The project uses community-based vendors and performance based contracts. Legal services are provided in addition to job placement and post employment services.

#### Houston Works

Houston Works is the workforce development entity for the City of Houston and is a collaborating with the Houston Community College System, Texas Southern University,

Southwest Memorial Hospital, Continental Airlines, SEARCH Homeless project, HUD, Baylor College of Medicine and the Houston Housing Authority. Participants receive job readiness counseling; temporary and permanent job placement services, post-employment and academic enrichment services. Participants also receive life skills, case management and family based assistance and counseling, including medical services and transportation services.

Eastern Workforce Development Board Inc, Muskogee, Oklahoma

This project will expand and supplement the Welfare to Work formula program, targeting non-custodial parents. It will develop an intensive job retention and employer incentive program. The project uses a case management approach and leverages resources from other training programs to serve children and other family members of participants. The program plans to establish an independent Employee Assistance Program for employers to help retain new workers.

Lessons Learned

Based on our experience to date with the Welfare to Work program, and previous demonstrations, research and programs, I believe there are certain principles that should govern our approach to serving noncustodial fathers. We have attempted to incorporate these principles into our Welfare to Work reauthorization proposal, which I will discuss in a moment.

Improving the employment and earnings of noncustodial fathers is a precondition for substantially raising the resources they provide to their families. This requires

interventions that address the many labor market problems and barriers these fathers face, as well as turnover and upward mobility problems. Thus, a wide range of services and approaches are important.

Early intervention and a formal commitment of the noncustodial parent are important.

Fathers who feel that they do not have anything to contribute to the family often do not stay connected to their family. We know that early intervention is crucial to establishing paternity, to helping men assume responsibility for their children and to increasing access and visitation. The most promising strategy to assist low income noncustodial fathers in becoming better parents and productive workers is to intervene early with a broad array of employment services and interventions that are designed to promote family and job stability. Such interventions must help these fathers accept the responsibility and obligation of supporting their children.

We have a window of opportunity right now, since labor markets are very tight and employers are seeking new sources of workers. The poor skills and criminal records that many poor fathers bring to the labor market are major disincentives to employers hiring them under the usual circumstances. However, many employers are experiencing high job vacancy rates and report difficulties finding workers. Many employers seem more open to hiring those with disadvantages. This is clearly true for welfare recipients and is likely true for low-income fathers.

Appropriate work-focused employment services are essential. It is important to develop a range of services that combine work and skill building. Experience indicates that non-custodial fathers want income producing employment quickly. On-the-job training is a particularly effective strategy for this group of workers. Further attention needs to be given to developing an enhanced on-the-job training strategy for non-custodial fathers.

Post-employment services that are sustained over a period of time are important. Most

noncustodial fathers work sporadically or part-time and few have full-time employment on a year round basis. Post employment services are critical to help the fathers keep their jobs and increase their wages.

Programs need to stress improvements in parenting skills, support for partnering, peer support, and the like. It appears that fathers benefit from services focused on conflict resolution, parent-child relationships, and information about the child support system.

Partnerships between the workforce investment system and the child support system are beneficial. It is important to build local partnerships to support fathers. If programs are to increase employment and increase child support, close collaboration between the workforce development agency, the community based providers, and the child support system is necessary.

Providing increased employment services to non-custodial fathers is essential to reducing poverty among children. Chronically unemployed, under employed and uneducated fathers with criminal records, substance abuse or other such problems, living apart from their children and the mothers of those children, are unlikely to be able to assume the responsibility of a nurturing and supportive parent. To assume such responsibility requires stable employment, which in turn requires skill development, accompanied by the supportive and family services necessary to succeed in the labor market and society.

#### The Welfare to Work Amendments of 1999

These lessons and others we have learned from the first two years of the Welfare to Work experience are the basis for the bill introduced by Representative Cardin last week as H.R. 1482, the Welfare to Work Amendments of 1999. These amendments reflect the Administration's

proposal and are intended to maintain the focus of the Welfare to Work program on the hardest-to-serve welfare recipients, while expanding employment opportunities to help low-income fathers better support their children.

The primary features of the program are retained -- including the focus on work, targeting resources to individuals and communities with the greatest need, and administration through the locally administered, business-led workforce investment system. There are several important enhancements to the current law.

First, the amendments simplify the eligibility criteria and provide greater flexibility to States and localities to provide services to additional categories of hard-to-employ welfare recipients and noncustodial parents. Concerns have been raised by State and local officials and program operators that the current eligibility criteria are too complex and narrow, with the result that a significant proportion of the least job ready welfare recipients and noncustodial parents are excluded from participation. Specifically, the current law requires that at least 70 percent of funds must be expended to assist participants who have at least two of three specified barriers to employment and that the recipient or minor child be a long-term recipient.

The proposed amendments provide for separate eligibility requirements for recipients and noncustodial parents. With respect to recipients, while retaining the requirement for long-term reciprocity, the amendments provide that they must meet at least one rather than two specified barriers to employment. In addition, the amendments simplify the first specified barrier to employment, which currently requires that the recipient has failed to complete secondary school or obtain a GED and has low skills in reading or math. There have been many reports that due to past practices, such as social promotion, a significant number of recipients who have diplomas

still have low basic skills and those low skills are a major barrier to employment. Therefore, the amendments divide these criteria into two separate barriers that allow assistance to recipients who lack a high school diploma (or a GED) or have reading, computing or math skills at or below the 8th grade level. The amendments also add recipients with disabilities, recipients who are homeless, and recipients who are victims of domestic violence to the categories of recipients with employment barriers who may be served under the Welfare to Work program.

With respect to noncustodial parents, the new criteria provide that they be unemployed, underemployed, or having difficulty paying child support obligations, and that the minor child of the noncustodial parent meets the current requirements for long-term reciprocity, is eligible for or receiving TANF benefits, has received TANF benefits within the preceding year but is no longer receiving benefits, or is eligible for or receiving Food Stamps, Supplemental Security Income or Medicaid. In determining the eligible noncustodial parents to be served, a preference is to be provided for those parents with minor children who are long-term recipients. While providing greater flexibility to States and localities, these criteria effectively link eligibility for services to both the needs of the noncustodial parent and the child.

Second, the amendments provide a greater focus on services to noncustodial parents to better enable such parents to contribute child support payments and other assistance to their children. To promote these objectives, the amendments provide that at least 20 percent of the formula funds allotted to a State are to be used to serve noncustodial parents. This threshold may be met through any combination of expenditures under both the 15 percent State reserve and the 85 percent of funds allocated to local areas under the substate formula. The State plan is to describe how these projects will be coordinated to accomplish this result. If a State submits a

waiver request and provides sufficient justification to the Secretary, the Secretary may reduce or eliminate the threshold. However, it is expected that waivers would only be granted under unusual circumstances, with the elimination of any threshold unlikely to be approved.

In addition, the amendments add an important feature to strengthen the commitment of the noncustodial parent and the Welfare to Work program to increased child support. Each noncustodial parent participating in the program is to enter into an individual responsibility contract with the local Welfare to Work program and the State child support agency under which the noncustodial parent commits to cooperate in the establishment of paternity and in the establishment or appropriate modification of a child support order, to make regular payments of child support, and to participate in services that the program reciprocally commits to provide to assist the noncustodial parent in finding and keeping employment. While the custodial parent would be encouraged to cooperate in these efforts, in order to protect such parents and their children who may be at risk of domestic violence, the amendments would provide that the Welfare to Work program may not require their cooperation. This contract makes clear the expectations and responsibilities of the parties involved and provides a framework for attaining the program's objectives.

By expanding eligibility, providing a 20 percent spending floor, and incorporating personal responsibility contracts, these amendments would build on the existing program to ensure the establishment of an infrastructure in each local area for providing effective services to noncustodial parents. The amended program incorporates the previously described lessons learned in serving this population.

In addition, the Welfare to Work Amendments of 1999 would enhance current law by:

- Increasing resources to Indian tribes from the current 1 percent of the total to 3 percent, and authorizing Indian tribes to apply directly to the Department of Labor for Welfare to Work Competitive Grants.
- Improving resource allocation by recapturing unallotted formula funds for competitive grants in the subsequent year, and providing a preference in awarding these funds to those local applicants and Indian tribes from States that did not receive formula grants.
- Streamlining reporting requirements through the Department of Labor.
- Promoting best practices by reserving funds for technical assistance, including disseminating innovative strategies for serving noncustodial parents.

In sum, these amendments would reauthorize and enhance the WtW program. While our welfare reform efforts have resulted in some important early successes, much remains to be done. Enactment of the Welfare-to-Work Amendments of 1999 would provide significant opportunities to the hard-to-employ welfare recipients to make the transition to stable employment and assist noncustodial parents in making meaningful contributions to their children's well-being.

Madam Chairman, this concludes my formal testimony. We need to work together in a bipartisan manner to help the hardest-to-serve welfare recipients, noncustodial fathers, and their children. I look forward to working with you and other members of the Subcommittee on this important subject.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-APR-1999 10:44:13.00

SUBJECT: Draft Statement

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

I would say in last sentence, "Congress should do the responsible thing and enact legislation to confirm FDA's authority and take this matter out of the courts."

----- Forwarded by Barry J. Toiv/WHO/EOP on 04/26/99  
10:41 AM -----

Laura Emmett

04/26/99 10:22:53 AM

Record Type: Record

To: Barry J. Toiv/WHO/EOP@EOP

cc:

Subject: Draft Statement

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

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

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*POTUS Statement on Supreme Court Tobacco Decision*  
*April 26, 1999*

I am very pleased that the Supreme Court has agreed to take up the case regarding the Food and Drug Administration's regulation of tobacco products. Almost three years ago, the FDA put in place a regulation to protect our children from tobacco, which the tobacco companies challenged in court. I remain firmly committed to the FDA rule, which will help stop young people from smoking before they start by eliminating advertising aimed at children and curbing minors' access to tobacco products. Every day, 3,000 young people become regular smokers and 1,000 will have their lives cut short as a result. If the leadership in Congress would act responsibly, it would act now to confirm FDA's authority and take this matter out of the courts.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-APR-1999 10:46:06.00

SUBJECT: LRM MNB53 - - LABOR Report on S385 Safety Advancement for Employees (SAFE)

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

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TO: Cordelia W. Reimers ( CN=Cordelia W. Reimers/OU=CEA/O=EOP@EOP [ CEA ] )

READ:UNKNOWN

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

READ:UNKNOWN

TO: Lisa B. Fairhall ( CN=Lisa B. Fairhall/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: Larry R. Matlack ( CN=Larry R. Matlack/OU=OMB/O=EOP@EOP [ OMB ] )

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

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CC: OPBRE ( CN=OPBRE/OU=ONDCP/O=EOP [ ONDCP ] )

READ:UNKNOWN

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

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

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

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CC: ca.legislation ( ca.legislation @ gsa.gov @ inet [ UNKNOWN ] )

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

CC: jwedekind ( jwedekind @ nlr.gov @ inet [ UNKNOWN ] )

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TEXT:

NOTE: DEADLINE IS 4 p.m. TODAY.

EOP staff: you will not receive a hard copy of this LRM. The attachment is approximately 9 pages long.

----- Forwarded by Melissa N. Benton/OMB/EOP on 04/26/99

09:29 AM -----

LRM ID: MNB53

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Monday, April 26, 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: LABOR Report on S385 Safety Advancement for Employees (SAFE) Act of 1999

DEADLINE: 4 p.m. Monday, April 26, 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: The Senate Health, Education, Labor, and Pensions Committee is scheduled to consider S. 385 on Wednesday, April 28th.

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 Courtney B. Timberlake  
 Janet R. Forsgren

LRM ID: MNB53 SUBJECT: LABOR Report on S385 Safety Advancement  
 for Employees (SAFE) Act of 1999  
 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

===== ATTACHMENT 1 =====  
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**draft -- March 8, 2010**

The Honorable James Jeffords  
Chairman  
Committee on Health, Education, Labor and Pensions  
United States Senate  
Washington, DC 20510-6300

Dear Chairman Jeffords:

I understand that the Committee on Health, Education, Labor and Pensions has scheduled a mark-up session for April 28, 1999 on S. 385, the "Safety Advancement for Employees Act of 1999" (SAFE Act).

I am writing to reiterate the Department's view that the SAFE Act, if passed, would unintentionally undermine OSHA's ability to protect workers. As Assistant Secretary for Occupational Safety and Health Charles Jeffress testified on March 4, 1999, before the Subcommittee on Employment, Safety and Training, if S. 385 is passed by Congress and presented to the President, I will recommend that he veto the legislation.

The effort to enact S. 385 ignores the very real successes that have been achieved since the bipartisan sponsorship and enactment of the Occupational Safety and Health Act nearly 30 years ago. The successes of the 1990's are particularly compelling. Workplace injuries and illnesses have declined for five consecutive years. The rate for 1997 was the lowest since the Bureau of Labor Statistics began reporting this information in the early 1970s. OSHA and the OSH Act have been catalysts for these achievements by private sector employers and workers.

OSHA is having success through results-driven enforcement efforts, compliance assistance and standard setting. The agency has developed a broad range of successful partnership programs that promote cooperative efforts among employers, workers and government.

OSHA also is making its enforcement programs smarter and fairer by spending more time at the most hazardous workplaces and less time at safer ones. Finally, OSHA is measuring results, where possible, not by numbers of citations or penalties, but by real improvements in the lives of working people, such as reduced injury and illness rates. The five-year decline in injury and illness rates is evidence that this combination of approaches is working. The SAFE Act focuses on old problems that OSHA has moved beyond, not new challenges the agency, workers and employers will face in the future.

**draft -- March 8, 2010**

We all agree that more must be done to protect workers. Too many workers continue to die or suffer injuries or illnesses because of work-related causes. Any legislation must increase workplace safety and health. The Department is concerned that S. 385 would, instead, place workers at increased risk.

The overwhelming majority of discussion relating to S. 385 has focused on the third-party certification provisions of the bill, about which the Department has made its position clear. As we have previously stated, private consultants, as a whole, provide a valuable service to employers and execute their responsibilities in a highly professional manner. OSHA encourages employers to use consultations to help detect and control hazards. But S. 385 provides only a marginal incentive for employers to hire third-party consultants, while creating significant conflict-of-interest problems by enabling employers to hire private, for-profit consultants to, in effect, exempt them from OSHA penalties. The SAFE Act also limits the accountability of consultants and employers. Under S. 385, OSHA has little recourse against consultants whose improper certifications put workers at risk. The SAFE Act also allows employers and consultants to negotiate the terms and time frames of compliance and fails to guarantee that all hazards will be corrected before a certificate of compliance is granted.

Although the Department is pleased that S. 385 emphasizes the importance of safety and health programs, it differs from OSHA's Safety and Health Achievement Recognition Program (SHARP) in significant ways. For example, while OSHA's SHARP program enables employers to receive a one-year exemption from programmed inspections, it does not provide a penalty exemption. In addition, employers participating in SHARP only receive their exemption from programmed inspections after they have received significant attention from OSHA and demonstrate the highest commitment to safety and health. Moreover, if OSHA is called in for a complaint or fatality investigation and discovers uncorrected violations, the SHARP employer is subject to citation and penalties.

In addition to the SAFE Act's third-party certification provisions, other provisions of the bill pose a significant threat to workplace safety and health. The Department's position on each of those provisions is detailed in the attached analysis. For the convenience of the Committee, I will highlight some, but by no means all, of the most significant issues that concern the Department:

draft -- March 8, 2010

**Expanded Inspection Methods.** Although investigation of complaints by telephone, facsimile and other similar methods is desirable in many situations, section 6 would enable those methods to be used at the expense of the fundamental worker right to an inspection.

**Worksite-Specific Compliance.** Section 7, which would require OSHA to vacate citations if the employer had at least as effective a means of protecting its employees as those required by the OSH Act, could render OSHA standards academic. This new employer defense could convert every enforcement action into a time-consuming litigation effort, imposing substantial burdens on agency resources and the court system. OSHA standards would become guidelines for open debate each time an employer received a citation.

**Technical Assistance.** The Department is concerned that section 8 runs counter to the agreement reached last year to codify OSHA's consultation program. Last year, the Congress enacted H.R. 2864 with bipartisan and Administration support and codified OSHA's consultation program with enhanced employee protections. The Department was proud of that cooperative effort and believes it is premature to amend this new law. In addition, the fee-for-service element of S. 385 would give priority to those who can afford to pay for consultation, not those who need it most. Consultation is and should remain prioritized for small, high-hazard industries, not for large, wealthy ones.

**Discretionary Compliance Assistance.** Section 11 would allow OSHA to issue warnings in lieu of citations, even for violations that have killed employees, as long as the employer agrees to abate the violation promptly. The Department believes that such unlimited discretion is inappropriate and sends a message that employers need not take preventive steps to protect their workers prior to an OSHA inspection.

The attached analysis discusses these issues in greater detail, along with the Department's position on Sections 4, 5, 9 and 10 of the bill.

Mr. Chairman, S. 385 would greatly diminish the ability of the Occupational Safety and Health Administration to administer and enforce the OSH Act. The bill would undermine OSHA's effort to achieve the Act's stated purpose: "to assure so far as possible every working man and woman in the Nation safe and healthful working

**draft -- March 8, 2010**

conditions and to preserve our human resources." The SAFE Act would result in an increased risk of occupational injuries and illnesses, jeopardizing the lives and well-being of our Nation's workers and their families. This legislation, drafted in the name of retooling and augmenting compliance-related resources, is a step backward and would require OSHA to devote valuable resources to monitoring private consultants rather than workplace safety and health. Accordingly, the Administration opposes its enactment.

The Office of Management and Budget advises that there is no objection to the submission of this report and that enactment of S. 385 would not be in accord with the Administration's program.

Sincerely,

Alexis M. Herman

Enclosure

draft -- March 8, 2010

Enclosure

DEPARTMENT OF LABOR ANALYSIS OF S. 385

April 1999

Section 3. Third Party Consultation Services Program

Section 3 requires the Secretary to establish a program to “qualify” individuals who could then serve as consultants to employers to assist them in identifying and correcting safety and health hazards in their workplaces. An employer who contracted for and received such services and who was declared by the consultant -- after the initial visit to the workplace, agreement on an Action Plan, and a possible follow-up “reinspection” visit -- to be in compliance with the Act, would be exempt from any assessment of a civil penalty under the Act for a period of one year, with certain limited exceptions.

The Department of Labor strongly opposes this section.

Initially, although we agree that employee safety and health are paramount, the Department is compelled to object to the new “purpose” that has been added to this section. The new “purpose” statement would codify the erroneous opinion that all employers are unable to read, understand and comply with the OSH Act. It would further codify the opinion that OSHA is unable to satisfy the compliance needs of each employer and employee within its jurisdiction. The addition of such sentiments to the OSH Act is, at best, inappropriate.

The incentives created by coupling the third party consultation provision with a penalty exemption leave the program extremely vulnerable to conflict-of-interest and accountability problems. At the most obvious level, a consultant paid by an employer would be likely to feel pressured to approve the employer’s program or to fail to recommend costly engineering controls even when they were necessary to prevent an injury or illness. Likewise, businesses may feel obligated to purchase unnecessary services proposed to them by their consultant in order to ensure being granted a certificate of compliance. In addition, the provision permitting employers and consultants to agree upon the terms of the Action Plan would invite abuses that could result in seriously delayed abatement, if abatement is agreed to at all. Further, there is no provision in the bill that would prevent an employer from utilizing one of its own employees, or a former employee, to provide consulting services. Though this is no doubt not the intent of the bill’s authors, section 3 would in effect enable employers to “purchase” immunity from OSHA inspections and penalties.

Reliance on the private sector for compliance declarations, coupled with exemptions from the possibility of civil money penalties for those employers who receive such declarations, would leave the agency without sufficient recourse if an inspection is necessary within the exemption

**draft -- March 8, 2010**

period. For example, even if conditions in a certified workplace had undergone major change during the exemption period, a penalty could only be levied if OSHA could demonstrate the occurrence of a “fundamental change in the hazards” of the workplace or that the employer had not made a good faith effort to remain in compliance. The only large-scale study to date that correlates worksite injury data with worksite inspection history over time has shown that inspections in which penalties are assessed result in a significant reduction in injuries at the inspected site for three years following the inspection, and that inspections without penalties have no appreciable impact (Wayne Gray and John Scholz, “Does Regulatory Enforcement Work? A Panel Analysis of OSHA Enforcement,” *Law and Society Review*, pages 177-213 (July 1993)).

The new version of the SAFE Act has been modified to include a safety and health program component. This is a positive addition to the bill, but does not cure flaws inherent in the third party consultation proposal. OSHA’s Safety and Health Achievement Recognition Program (SHARP), part of OSHA’s consultation program, exempts employers from a *programmed inspection only* after the employer requests and receives a full-service consultation visit, and works with the consultation program for a period of at least a year from the date of the initial visit to correct and abate all hazards, implement a fully effective worksite safety and health program and lower the lost workday and accident rates to a level at or below the national average for their industry. Unlike S.1237 in the 105<sup>th</sup> Congress, S. 385 incorporates a requirement for employers to implement a safety and health program before they can receive a certificate of compliance. However, unlike OSHA’s SHARP program, there is no guarantee that all hazards will be abated before a certificate is granted. In addition, the ability of private, for-profit consultants to provide *penalty* exemptions, rather than the exemptions from programmed inspections that the SHARP program provides, gives those private, for-profit consultants power well beyond any power granted to an OSHA compliance officer or a state consultant. SHARP companies never receive blanket exemptions from penalties. Finally, under the SHARP program, OSHA has the final say over whether companies should receive SHARP recognition. This system provides an additional check to ensure that a workplace is safe and has an effective safety and health program before it becomes exempt from a *programmed inspection*.

The Department remains concerned that the bill is completely silent about a consultant’s obligations when an employer is found NOT to be in compliance. This means that the consultant then has the option of refusing to provide a declaration, which leaves the employer free to seek out another consultant. While the bill now requires the consultant to identify violations of the OSH Act and possible corrective measures, there is still no clear requirement that employers abate the identified hazards or that consultants report to OSHA in the event of an employer’s refusal to abate. Moreover, because reinspections are not necessarily required, there is no way for the consultant, employees or OSHA to verify either abatement or whether the elements of an effective safety and health program have been fully implemented.

**draft -- March 8, 2010**

The Department is concerned that the bill could allow an employer to receive a certificate of compliance even if it has not yet completed the process of hazard abatement. This would allow an employer that is out of compliance with the law to be declared in compliance. The problem is further compounded because an employer with a certificate of compliance who has not yet abated hazards identified in the written plan could not be penalized by OSHA for one year. Finally, unlike OSHA's abatement verification rule, the employer would not have to "inform affected employees and their representatives about abatement activities" the employer had promised to undertake. Elimination of a mandatory reinspection requirement worsens this problem. Without reinspection, an employer could obtain a certificate without having to show that it has abated a single hazard. In the event that a reinspection does actually occur, there is no provision for further action if the employer has not satisfied all the elements in the consultation report.

In addition, relying on the private sector for such certifications, while at the same time exempting the employer's worksite from the possibility of a penalty, would deprive the agency of sufficient "quality control" over both certifications and the safety and health audits performed by Federally-sanctioned, certified individuals. The only oversight granted to OSHA under this bill is meaningless. The bill requires OSHA to maintain a registry of safety and health consultants it deems qualified, but hamstringing the agency in the event problems occur. In addition, maintaining a registry would place a substantial burden on the agency's already limited resources. Those resources should be targeted toward making workplaces and workers safer, not toward policing a new army of consultants.

These problems are compounded because the disciplinary action anticipated by this legislation is insufficient to redress or deter the abuses for which S.385 creates an incentive. Removal of a consultant from participation in the program is simply not enough to prevent or punish abuses such as fraud or collusion. Further, the circumstances under which an employer or consultant could be disciplined are so limited that the bill would permit a consultant to continue to participate where injuries and illnesses continue to occur as a result of incompetence or simple negligence. In addition, it appears that a consultant's failure to identify a hazard would exempt the employer from penalties for that hazard.

Further compounding these problems is the bill's failure to clearly identify the minimal qualifications for a consultant. For example, section 8A(b)(2)(A) identifies practitioners of certain state-licensed occupations as "eligible to be qualified" as consultants, but neglects others and does not specify what experience in hazard identification and occupational safety and health eligible consultants must have. OSHA is further concerned that this provision requires states to create licensing programs for safety and health professionals. We believe that this requirement may impose a significant burden upon the states.

The Department is unaware of any concrete evidence that a third party certification program would be successful. At the outset of this Administration, the idea of third-party audits was

**draft -- March 8, 2010**

raised at a meeting of OSHA's stakeholders, where it met with little enthusiasm from either labor or business representatives. More recently, a State of North Carolina survey demonstrated a resounding preference on the part of employers for an OSHA consultant over a private consultant. Cost, as well as suspicion that the private consultant might attempt to sell an employer unnecessary services, were among the reasons given in support of OSHA consultants.

#### Section 4. Establishment of Special Advisory Committee

Section 4 would require the Secretary to establish a new advisory committee consisting of employees, employers, members of the general public, and an official from a state plan state. The committee would advise and make recommendations to the Secretary concerning the establishment and implementation of third-party consultation services programs under section 8A of the bill.

Section 7(a) of the current statute establishes the National Advisory Committee on Occupational Safety and Health (NACOSH), which exists to make recommendations on matters relating to the administration of the current Act. Mandating the establishment of a new advisory committee dealing with the new consultation program in section 8A of the bill would duplicate part of the existing jurisdiction of NACOSH and, as such, would be redundant and not in keeping with the concept of reinvention and streamlining. In the event the Secretary needs to consult with experts on the specifics of consultation programs, Sections 7(c)(1) and (2) of the OSH Act now give the Secretary broad powers to hire consultants and experts, and to utilize the services of experts from other Federal agencies and states. If the Secretary wishes to obtain advice through the instrumentality of an advisory committee, she may establish such a committee pursuant to the requirements of the Federal Advisory Committee Act.

#### Section 5. Continuing Education and Professional Certification for Certain Occupational Safety and Health Administration Personnel

Section 5 requires Federal employees who enforce the Act to meet the eligibility requirements established under new section 8A(b)(2) for third-party consultants. In addition, these employees must receive professional education and training every five years.

OSHA agrees that effective training of enforcement personnel is vitally important. OSHA and the State Plans conduct a wide range of training programs to ensure that compliance officers conduct fair and effective investigations.

The OSH Act is not industry-specific; it applies to a wide variety of workplaces throughout the nation. Therefore, it has been OSHA's experience that individuals with broad professional backgrounds become the best inspectors. During their first three years of employment, new

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Compliance Safety and Health Officers (CSHOs) are teamed with experienced inspectors and are given over 250 hours of training on investigative techniques at the OSHA Training Institute (OTI) in Des Plaines, Illinois. Additional training is mandatory for experienced CSHOs at least once every three years. Finally, whenever new standards are promulgated, OTI offers specialized training in these standards.

As this discussion illustrates, OSHA does train and educate its employees, but not in a manner that matches the bill's inflexible requirements. We are concerned that the bill is unclear about which employees would be required to receive this training. For example, would the agency's attorneys be considered "responsible for enforcing this Act"? We are further concerned about the cost of providing the required training.

Finally, we note that the bill contains no specific training requirements for the consultants for the program created under section 5, whose inspections and reports may result in employer exemptions from civil money penalties.

#### Section 6. Expanded Inspection Methods

Section 6 of the bill would allow OSHA to investigate an alleged violation or danger by telephone or facsimile. The bill also states that OSHA is not required to conduct complaint inspections if "a request for inspection was made for reasons other than the safety and health of the employees of an employer" or if OSHA determines that workers are not at risk.

OSHA has two primary concerns about this section. First, although investigation of complaints by telephone, facsimile and other similar methods is desirable in many situations, these methods should not replace a worker's fundamental right to an inspection. In the past two years, OSHA has reduced the time from the filing of a complaint to the time hazards are abated by using telephone and facsimile methods for investigating *informal* complaints. In addition, several offices have experimented with these methods for investigating *formal* worker complaints, but only where the complaining worker agrees. However, these methods should not be allowed to interfere where a worker seeks to exercise his or her statutory right to an inspection.

Second, section 6 would allow OSHA to forgo a formal complaint inspection if it determines that the complaint was made for reasons other than safety and health -- even if the information provided by the complainant suggests that the workers in question may be facing substantial risk.

Again, the agency's determination as to whether to inspect following a formal complaint should be based on the likelihood that workers are at risk -- not on the motivation of the complainant. Where workers face substantial hazards, OSHA should act -- and is compelled by statute to act -- to protect them. Moreover, it would be very difficult for OSHA to determine the complainant's motivation. This exercise would consume scarce agency resources and delay inspections.

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Ultimately, the agency should continue to inspect where it has reasonable cause to believe that workers are at risk.

### Section 7. Worksite-Specific Compliance Methods

Section 7 would create an entirely new statutory defense to an OSHA citation, based on an employer's demonstration that employees were protected by alternate methods equally or more protective than those required by the standard the employer violated.

The OSH Review Commission and the courts have held repeatedly that when OSHA's standards require employers to adopt specific precautions for protecting employees, employers must comply in the manner specified. Under current law, employers have the right to select alternative means of compliance when literal compliance is impossible or would pose a greater hazard to employees. In "greater hazard" cases, the Commission requires an employer to show that a variance has either been sought or would be inappropriate.

Under these rules, the contest rate has remained relatively low; less than ten percent of all citations are currently contested. Under this provision of S. 385, however, virtually every employer cited for violations of the OSH Act or OSHA standards could claim that an alternative means of compliance was as effective as the standard in question. In effect, standards would become guidelines, subject to challenge -- and potential waiver -- in every individual contested case. This provision could seriously undermine OSHA's standards, turn every enforcement action into a costly and time-consuming variance proceeding, and impose substantial burdens upon agency resources, the OSH Review Commission, and the Federal courts.

### Section 8. Technical Assistance Program

Section 8 amends the OSH Act's "Training and Employee Education" provision to require cooperative agreements between OSHA and States to provide consultation programs. The Department objects to amending the new consultation law Congress passed less than a year ago with bipartisan support after extensive negotiations between Congress and the Department ((P.L. 105-197, 112 Stat. 638 (July 16, 1998) (the "Occupational Safety and Health Administration Compliance Assistance Authorization Act of 1998"))).

We are particularly concerned with further amending the program in the way contemplated by section 8. Under section 8, the Secretary must establish a pilot program in three states for a duration of up to two years, the purpose of which would be to test a fee-for-service system. The fifty state agencies that already administer the consultation program have expressed very strong reservations about charging fees in the consultation program. The Administration shares these

**draft -- March 8, 2010**

concerns. Those who could pay would be visited first, defeating the philosophy that this service is aimed at small or highly hazardous businesses that cannot afford to hire other consultants.

#### Section 9. Voluntary Protection Program

Section 9 attempts to codify OSHA's Voluntary Protection Program, requiring the Secretary to establish cooperative agreements with employers, who would create and maintain comprehensive safety and health management systems. The bill requires enhanced OSHA efforts to include small businesses in the VPP. Participation in this program would result in exemptions from inspections and certain paperwork requirements.

OSHA has supported codifying the VPP program, but we do not support this provision as drafted. The VPP has traditionally been, and should remain, a program for *work sites*, not employers. Although there are references to "the worksite" in the section, this vital mainstay of the program must be emphasized. OSHA is also concerned that codification could jeopardize the high standards of the program currently in operation. As drafted, this provision does not reflect the idea that the VPP program is reserved exclusively for those employers who have demonstrated the highest commitment to worker safety and health. Ideally, any codification of this program should limit participation to employers who have truly superior safety and health records, but should allow OSHA the flexibility to define (and modify as necessary) the specific criteria for participation in the program. We further note that the bill does not include a program requirement for VPP participants to provide meaningful employee involvement in safety and health matters, which we believe to be an important component of the program. These changes must be made before OSHA would withdraw its objections.

#### Section 10. Prevention of Alcohol and Substance Abuse

Section 10 authorizes the Secretary to test employees and management for drugs and alcohol following any work-related fatality or serious injury. It also permits employers to institute their own testing programs conforming to HHS and Federal workplace guidelines. Testing is permissible on a for-cause basis, as part of a scheduled medical examination, where an accident involving actual or potential loss of human life, bodily injury, or property damage has occurred, during participation in a drug treatment program, or on a random basis.

OSHA strongly supports measures that contribute to a drug-free work environment and reasonable programs of drug testing within a comprehensive workplace program for certain workplace environments, such as those involving safety-sensitive duties, and which take into consideration employee rights to privacy. However, OSHA is concerned that it may not have the resources to oversee drug and alcohol programs.

**draft -- March 8, 2010**

### Section 11. Discretionary Compliance Assistance

This section provides that the Secretary may issue warnings in lieu of citations where the violation has no significant relationship to safety or health or where the employer has acted in good faith to promptly abate the violation. The Secretary may not exercise this discretion where the violation has a "significant relationship to employee safety or health" or where the violation is willful or repeated.

Currently, the OSH Act provides that OSHA "shall" issue a citation for each violation it discovers during an inspection. This provision would change this provision to "may." As a practical matter, the impact of this proposed change is unclear. Federal case law demonstrates that OSHA possesses a greater degree of prosecutorial discretion than was recognized in the early years of the agency's existence. The agency has discretion under existing law to establish programs in which it does not issue a citation for every violation it finds. For example, OSHA has used this discretion to establish programs such as Maine 200.

Among other things, OSHA is particularly troubled by paragraph 3(B), which allows the issuance of a "warning in lieu of a citation" for violations that the employer "acts promptly to abate[.]" Even though it allows OSHA the discretion to issue citations in such circumstances, this provision may signal employers that they need not take preventive steps to protect their workers prior to an OSHA inspection. As such, this provision could undermine both the preventive purpose as well as the deterrent effect of OSHA's enforcement program.

Prompt abatement of hazards should be encouraged, but it should be encouraged through penalty reductions, not by eliminating any citations whatsoever for violations. Otherwise, employers who make good faith efforts to protect workers before an OSHA inspector arrives at their door will be treated the same as neglectful employers who have ignored their workers' safety until the inspection.

Finally, the limitations on the Secretary's discretion are so narrow that they could lead to outrageous results. For example, the Secretary's discretion is not limited to cases in which an employer has shown good faith by implementing a safety and health program or in which no employee has been killed or seriously injured because of the employer's violation. Rather, the bill authorizes the Secretary to issue a warning in lieu of a citation if the employer "acts promptly to abate the violation" even if the employer has a long history of previous violations and causes the death of several employees.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sean P. O'Shea ( CN=Sean P. O'Shea/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:26-APR-1999 11:20:11.00

SUBJECT:

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Heather M. Riley ( CN=Heather M. Riley/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: Monica M. Dixon ( CN=Monica M. Dixon/O=OVP@OVP [ UNKNOWN ] )  
READ:UNKNOWN

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

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

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

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

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

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

TEXT:

Throughout the weekend, and continuing throughout this week, Cabinet Affairs hosts conference calls with representatives from those agencies involved in responding to the Columbine High School shooting. We will gather new information from Justice, Treasury, Education, HHS, and FEMA.

The Department of Education

INTERNAL INFO ONLY: The Department of Education received a request from the School Superintendent in Colorado over the weekend seeking officials to assist with long term recovery efforts. Today, Monday, April 26, DOEd is quietly organizing a team of five officials to travel to Colorado tonight. The following people will arrive tonight and help coordinate intermediate and long term efforts:

Bill Modzeleski - Dept of Ed, Safe and Drug Free Schools

Jamon Kent, Superintendent, Springfield, Oregon

Cathy Paine, Crisis Counselor, Springfield, Oregon

Annette Murphy, Oklahoma City, Oklahoma

(Ms Murphy now works for a Mental Health Organization, she was charged with implementing the Oklahoma City crisis plan after the bombing)

Marleen Wong, Los Angeles Public Schools

Marleen is an expert on responding to crisis. She helped with Oklahoma City, Springfield Oregon and several other disasters.

Other agencies continue to supply information as it becomes available. Please contact Kris or myself with any questions at 62572.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-APR-1999 12:00:25.00

SUBJECT: Scheduled Meeting

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Please put on the calendar a meeting in room 260 w/Barbara Chow on ESEA Tuesday at 12:30 - 1:30 other attendees will be Wayne Upshaw and the staff from the Education Branch

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-APR-1999 12:10:31.00

SUBJECT: UPI story

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:

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

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

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D26]ARMS25993313Z.136 to ASCII,

The following is a HEX DUMP:

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5274BE3B657B37DF3EBD40866F2C50337A2CA4DEF91D6A4D4CEEFD4FD6038B1A6C34112AE5E6D

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United Press International

April 26, 1999, Monday, BC cycle -10:31 Eastern Time

SECTION: Washington News

LENGTH: 1243 words

HEADLINE: UPI Focus) Court looks at the future of tobacco

BYLINE: BY MICHAEL KIRKLAND

DATELINE: WASHINGTON, April 26

BODY:

The Supreme Court says it will argument next term on the authority of the Food and Drug Administration to regulate tobacco as a drug. Industry officials warned last week that regulating tobacco as a drug -- something a lower court has blocked -- would ultimately lead to the banning of their product. According to the Justice Department, which asked the Supreme Court to hear the case, the FDA considered banning tobacco when it first tried to regulate the product in 1996. But the agency rejected a ban because "the sudden withdrawal from the market of products to which so many millions of people are addicted would be dangerous." The agency also feared the effects of a black market. Industry officials argued last week that even if the FDA doesn't want to ban tobacco immediately, provisions of existing law might compel the agency to ban it as a drug without therapeutic value or as "an unsafe medical device." And even if the FDA disagrees with that interpretation, the officials said, regulation would open the way for an immediate private lawsuit by anti-tobacco activists to force a ban in compliance with federal law. In a petition to the Supreme Court, the Justice Department said tobacco-related diseases kill more than 400,000 people each year, "more than AIDS, alcohol, car accidents, homicides, suicides, illegal drugs and fires combined." President Clinton first announced FDA regulation of tobacco in 1996. The regulation relied on the 1938 Food, Drug and Cosmetic Act, which expanded the legal definition of a "drug" to include non-food "articles intended to affect the structure or any function of the body of man or other animals. The act also authorized the FDA to regulate "devices" as well as drugs. A device is defined as the method by which a drug is introduced into the body. The Justice Department said the FDA conducted an extensive study before the 1996 regulation, determining that tobacco causes nicotine addiction. The study also found that tobacco companies manipulated the nicotine content of their cigarettes, and that tobacco use is a "pediatric

disease" acquired before someone is an adult. If someone doesn't smoke as a teenager, the study determined, he or she is unlikely to smoke as an adult. The regulation prohibited the sale of tobacco anywhere to those under 18, required retailers to check the identification of those under 27 and banned vending machines and self-service displays of cigarettes and smokeless tobacco outside of adult-only locations. The regulation also required that all tobacco advertisements appear in black and white, text-only format, except in adult-only publications and facilities; no outdoor ads within 1,000 feet of a school or playground; no sale or distribution of hats, T-shirts and other non-tobacco products that bear a tobacco product brand name or logo, and finally, no tobacco-brand name sponsorship of events, such as sports or cultural gatherings. The major tobacco companies filed suit against the regulation in federal court in the tobacco-growing area of Greensboro, N.C. Though a federal judge ruled for the FDA, an appeals court panel reversed, blocking all the regulations except for age limits on sales. The Clinton administration then asked the Supreme Court for review. But lawyers for the tobacco industry had urged the justices to let the appeals court ruling stand, saying the 1938 law, enacted five years after the end of Prohibition, was not intended to let the FDA "institute a new Prohibition." Argument in the case, though not yet scheduled, should be heard next winter unless either side asks the Supreme Court for an expedited process. (No. 98-1152, FDA et al vs. Brown and Williamson et al)

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-APR-1999 13:35:03.00

SUBJECT: Re: Final Statement

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

READ:UNKNOWN

TO: Jeanne Lambrew ( CN=Jeanne Lambrew/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

TEXT:

Cynthia A. Rice

04/26/99 01:33:57 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Laura  
Emmett/WHO/EOP

cc:

Subject: Final Statement

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

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D91]ARMS233644133.136 to ASCII,  
The following is a HEX DUMP:

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05DBC35309A205B354E1400D5EDA02542B097B4BD71CCD77EA4D8285A585EDF92F103F0CDC90E9  
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**THE WHITE HOUSE**

**Office of the Press Secretary**

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**For Immediate Release**

**April 26, 1999**

**STATEMENT BY THE PRESIDENT**

**I am very pleased that the Supreme Court has agreed to take up the case regarding the Food and Drug Administration's regulation of tobacco products. Almost three years ago, the FDA put in place a regulation to protect our children from tobacco, which the tobacco companies challenged in court. Every day, 3,000 young people become regular smokers and 1,000 will have their lives cut short as a result. I remain firmly committed to the FDA rule, which will help stop young people from smoking before they start by eliminating advertising aimed at children and curbing minors' access to tobacco products.**

**###**

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 26-APR-1999 14:49:47.00

SUBJECT: ESEA Mtg Rescheduled

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

READ: UNKNOWN

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

READ: UNKNOWN

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

READ: UNKNOWN

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

READ: UNKNOWN

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

READ: UNKNOWN

TEXT:

This meeting originally set for Tuesday at 12:30 has been rescheduled for 2-3pm in Barbara's office - room 260.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-APR-1999 15:11:15.00

SUBJECT: Reminder--commetns on LABOR Report on S385 Safety Advancement for Employee

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Cordelia W. Reimers ( CN=Cordelia W. Reimers/OU=CEA/O=EOP@EOP [ CEA ] )

READ:UNKNOWN

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

READ:UNKNOWN

TO: Lisa B. Fairhall ( CN=Lisa B. Fairhall/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: Larry R. Matlack ( CN=Larry R. Matlack/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

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

READ:UNKNOWN

TO: Courtney B. Timberlake ( CN=Courtney B. Timberlake/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: Richard J. Turman ( CN=Richard J. Turman/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Stuart Shapiro ( CN=Stuart Shapiro/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

TO: Debra J. Bond ( CN=Debra J. Bond/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

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

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

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

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

ca.legislation@gsa.gov ( ca.legislation@gsa.gov @ inet [ UNKNOWN ] )  
READ:UNKNOWN

LRM AGRICULTURE ( LRM AGRICULTURE [ UNKNOWN ] )  
READ:UNKNOWN

TEXT:

This is a reminder that your comments on the subject report are due at 4 p.m. today.

Please provide any comments via fax (395-6148), e-mail, or phone (395-7887) no later than the deadline. If we do not hear from you by the deadline, we will assume you have no comments.

Please call if you have any questions. Thanks!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-APR-1999 17:26:17.00

SUBJECT: LRM MNB54 - - LABOR report on Increasing the minimum wage

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Cordelia W. Reimers ( CN=Cordelia W. Reimers/OU=CEA/O=EOP@EOP [ CEA ] )

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Stuart Shapiro ( CN=Stuart Shapiro/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Debra J. Bond ( CN=Debra J. Bond/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: lrm@os.dhhs.gov ( lrm@os.dhhs.gov @ inet [ UNKNOWN ] )

1  
READ:UNKNOWN

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

CC: llr@do.treas.gov ( llr@do.treas.gov @ inet [ UNKNOWN ] )  
READ:UNKNOWN

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

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

TEXT:

Note to EOP staff: you will not receive a hard copy of this LRM.

----- Forwarded by Melissa N. Benton/OMB/EOP on 04/26/99

05:15 PM -----

LRM ID: MNB54

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

Monday, April 26, 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: LABOR Statement for the Record on Increasing the minimum  
wage

DEADLINE: 11 a.m. Tuesday, April 27, 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: The Department of Labor wants to submit this statement for the record for a House Education and the Workforce hearing tomorrow afternoon (April 27th).

DISTRIBUTION LIST

AGENCIES:

118-TREASURY - Richard S. Carro - (202) 622-0650  
52-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7760  
25-COMMERCE - Michael A. Levitt - (202) 482-3151  
107-Small Business Administration - Mary Kristine Swedin - (202) 205-6700  
61-JUSTICE - Jon P. Jennings - (202) 514-2141

EOP:

Barbara Chow  
Iratha H. Waters  
Barry White

Larry R. Matlack  
 Debra J. Bond  
 Cordelia W. Reimers  
 Sarah Rosen  
 Jeffrey L. Farrow  
 Karen Tramontano  
 Broderick Johnson  
 Elena Kagan  
 Andrea Kane  
 Cynthia A. Rice  
 Jack A. Smalligan  
 Stuart Shapiro  
 Sandra Yamin  
 Janet R. Forsgren

LRM ID: MNB54    SUBJECT:    LABOR Statement for the Record on  
 Increasing the minimum wage  
 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

- Minwagty.wpd

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

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D21]ARMS277847132.136 to ASCII,  
The following is a HEX DUMP:

FF57504337050000010A02010000000205000000971A000000020000701F0133AD7AF993B4A86B  
4060F87577CA6364A163658D01F36594ED068946994E2A5034BC6DBB9088F39B45E5B54C074510  
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**STATEMENT OF ALEXIS M. HERMAN,  
SECRETARY OF LABOR**

**BEFORE THE**

**COMMITTEE ON EDUCATION AND THE WORKFORCE  
HOUSE OF REPRESENTATIVES**

**APRIL 27, 1999**

I am pleased to be able to offer my remarks today in strong support of the President's proposal to increase the minimum wage. For more than 11 million American workers, increasing the minimum wage from \$5.15 an hour to \$6.15 a hour over two years is not an academic debate among economists. Instead, it is about paying the rent, buying the groceries, and keeping the kids in clothes. Seventy percent of those who would benefit are adults, 20 and over. Three-fifths are women, many of whom are the sole breadwinners in their families. Mr. Chairman, these hard-working Americans -- some of whom work 2 and 3 jobs -- deserve a raise.

When we last raised the minimum wage and expanded the earned income tax credit, we took important steps to reward work and help millions of Americans raise their families with dignity and move off welfare. Because of our actions, a full-time working parent with two children does not have to live in poverty. But more must be done to ensure that *all* working families are lifted out of poverty.

The minimum wage is not enough to make ends meet for many families. Working 40 hours a week, 50 weeks a year, a minimum wage worker still earns just \$10,300 a year. For these

workers and their families, a one-dollar increase would make a real difference. It would mean another \$2,000 a year. That's enough to buy a family of four groceries for 7 months or pay for 5 months' rent.

Opponents of an increase in the minimum wage overlook these benefits, and claim an increase will hurt those it's intended to help. When we last raised the minimum wage, opponents claimed that jobs would be lost throughout the economy -- especially in lower-wage sectors such as retail stores and restaurants. They predicted that unemployment rates would skyrocket for teenagers and disadvantaged workers. Some claimed that inflation would go through the roof.

The facts have proven the critics were wrong. Unemployment and inflation are the lowest they have been in roughly 30 years. Since President Clinton signed the last increase into law, over 7 million new jobs have been added. More than one million new retail jobs have been added, and restaurant jobs have grown by over 270,000.

Unemployment has also declined significantly over the same period. The unemployment rate for African-Americans has dropped from 10.6% to 8.1%. Unemployment for Hispanics is at a record low of 5.8% -- down from 8.3% in September 1996. For high school dropouts, unemployment dropped from 8.2% to 6.1% -- another record low. Teenage unemployment declined from 15.7% to 14.3%, while African-American teen unemployment went from 33% to 31%.

Employment has increased dramatically as well. Employment among African-American women has risen from 57.2% to 60.9%. And employment for welfare recipients and single mothers with children is continuing to climb, at least partly because of policies that “make work pay” such as a higher minimum wage.

Some critics claim that these employment increases might have been even greater in the absence of the minimum wage increases, but it is hard to take these claims seriously. Many surveys of employers currently show that, instead of facing pools of qualified applicants whom they refuse to hire, they are having difficulty finding applicants to fill jobs that they've already created. This simply doesn't fit the picture of an economy in which moderate increases in the minimum wage have led to fewer jobs and lost employment opportunities.

The minimum wage increase would help, not hurt, poor families. Most studies show that minimum wage increases disproportionately benefit workers in low-income families. While a majority of those who earn the minimum wage live in families with incomes above the poverty line, these incomes are often below the average level of family income in the United States. An increase in the minimum wage would therefore help a wide range of families with low-wage workers who need a raise.

Mr. Chairman, we know who will benefit from this bill. We see minimum wage workers every day when we buy a cup of coffee on the way to work. We see them cleaning our offices as we

leave. We see them as we pick up our children from the child care center, or visit our parents in the nursing home. Our nation's extraordinary prosperity rests on the efforts of all these workers.

They deserve to be treated with dignity. They deserve a fair share of our prosperity. They deserve an increase in the minimum wage, and I urge you to adopt the President's proposal.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:27-APR-1999 08:57:23.00

SUBJECT: STAFF MEETING

TO: Skye S. Philbrick ( CN=Skye S. Philbrick/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: Sandra Thurman ( CN=Sandra Thurman/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

READ:UNKNOWN

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

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

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

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

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

TEXT:

This morning's DPC Staff Meeting is CANCELLED.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Robert J. Pellicci ( CN=Robert J. Pellicci/OU=OMB/O=EOP [ OMB ] )

CREATION DATE/TIME:27-APR-1999 09:55:29.00

SUBJECT: LRM RJP60 - - EDUCATION Signing Statement on HR800 Education Flexibility P

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Broderick Johnson ( CN=Broderick Johnson/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: KAGAN\_E@A1@CD@LNGTWY ( KAGAN\_E@A1@CD@LNGTWY [ UNKNOWN ] ) (OPD)

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

DEPARTMENT OF EDUCATION DRAFT SIGNING STATEMENT ON HR 800 - ED-FLEX  
PARTNERSHIP LEGISLATION -- COMMENTS DUE AT 1:00 P.M. TODAY.

----- Forwarded by Robert J. Pellicci/OMB/EOP on 04/27/99

09:50 AM -----

LRM ID: RJP60

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

Tuesday, April 27, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution  
below

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

OMB CONTACT: Robert J. Pellicci

PHONE: (202)395-4871 FAX: (202)395-6148

SUBJECT: EDUCATION Signing Statement on HR800 Education  
Flexibility Partnership Act of 1999

DEADLINE: 1:00 p.m. Tuesday, April 27, 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

AGENCIES:

Executive Office of the President - EOP Review Only See Distribution -

EOP:

- Barbara Chow
- KAGAN\_E
- Jonathan H. Schnur
- Tanya E. Martin
- Bethany Little
- Broderick Johnson
- Barry White
- Wayne Upshaw
- Daniel J. Chenok
- Daniel I. Werfel
- Robert G. Damus
- Charles E. Kieffer
- James J. Jukes
- Janet R. Forsgren

LRM ID: RJP60 SUBJECT: EDUCATION Signing Statement on HR800 Education Flexibility Partnership Act of 1999

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: Robert J. Pellicci Phone: 395-4871 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=====

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

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D86]ARMS20941223S.136 to ASCII,  
 The following is a HEX DUMP:

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```

**STATEMENT ON THE SIGNING OF H.R. 800,  
THE EDUCATION FLEXIBILITY PARTNERSHIP ACT**

Today, I am pleased to sign into law H.R. 800, the "Education Flexibility Partnership Act of 1999". This bill will enable all the States, the District of Columbia, the Commonwealth of Puerto Rico, and the Outlying Areas to participate in "ED-Flex" partnerships, a goal that I strongly support.

As States and communities continue the process of implementing education reforms that enable all children to achieve to challenging State academic standards, it is important that States and school districts have the ability to use resources to meet their particular needs. Although current Federal education programs offer a high degree of flexibility, there will always be requirements that do not fit the circumstances of each and every school or district. The ED-Flex authority gives States the ability to waive requirements that stand in the way of implementing reforms, if they determine that waivers will promote educational achievement.

As this measure moved through Congress, my Administration insisted that expanded flexibility be accompanied by strong accountability for results. I am pleased that the final bill includes the kind of accountability provisions we sought. It will permit the Secretary of Education to grant ED-Flex status only to States that have developed challenging education standards as well as assessments for measuring student and district progress against those standards, or are on track for doing so. It will also require States to measure the impact of their waivers on student performance and the Secretary to terminate a State's ED-Flex status if he determines that education performance in the State has not been adequate.

I am also pleased that the bill would ease requirements related to the participation of small school districts in the Class Size Reduction program that this Administration proposed and Congress enacted last year. These changes will enable more school districts to take part in this important new initiative.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:27-APR-1999 11:57:38.00

SUBJECT: Public Charge

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Christopher C. Jennings ( CN=Christopher C. Jennings/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:

Groups rep. who have been involved in our discussions on public charge have requested that we consult with them prior to publication of the public charge proposed regulation and INS field guidance. In light of our legal constraints, we consulted with OIRA and they advised us that it would be appropriate for a group to meet with INS to review the draft INS field guidance. The INS meeting would be followed with a meeting with WH and OMB staff to hear from the group reps their comments on the draft public charge guidance. This meeting would be a very small group of people who have met previously on this issue. The meetings will likely take place next week. I will let you know when they are scheduled.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:27-APR-1999 12:07:52.00

SUBJECT: Tobacco Free Kids report to come out TOMORROW

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

TEXT:

Here's the Campaign summary-in-progress of their report they plan to release tomorrow on how few states are using tobacco settlement funds to reduce youth smoking. They're hoping for a Post story to run tomorrow morning. Two questions for you:

(1) From this info, what would you suggest is the most compelling one sentence sound bite? Perhaps "In recent months, only four states have decided to use tobacco settlement funds to reduce youth smoking, and unless Congress and the states act, only 9 states will have comprehensive efforts to reduce youth smoking."

(2) How can we help amplify? We'll obviously do a Q&A. Any other thoughts?===== ATTACHMENT 1 =====

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

TEXT:

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Z6Times New Roman RegularX(\$\ ` \$Times NewRoman%2A`Arial

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FTE=DRAFTDRAFTDRAFT □□T@4

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REPORTCARD ARECORDOF PROMISESBROKENANDAN OPPORTUNITYLOSTLastNovember46statessettledthecasestheyhadfiledagainstthetobaccocompanies.Whenthestatesfirstfiledsuitagainstthetobaccocompanies,electedofficialsfromeachofthestatessaidthattheyweredoingstoptopreventanothergenerationofchildrenfrombecomingaddictedtotobaccoandtoreducetheamounttheircitizenswerespendingtotreattobaccocauseddisease.Whenthestatessettledtheircases,theypromisedthatthesettlementwasjustthefirststepintheirefforttor

educetobaccouse, particularly among children. Through their Attorneys General they pledged that the funds from the settlement created an historic opportunity to use the tobacco companies' own money to reduce tobacco use even though the Agreement that they had just signed did not dictate how to spend the money. Five months later, how are the states doing in fulfilling their promises? While many legislatures are still in session and some states have deferred action on how to spend the settlement money until next year, it is not too early to come to some preliminary conclusions. If current trends continue, the vast majority of the states will spend little or none of the tobacco settlement money on programs intended to prevent children from starting or helping current tobacco users to quit. Thus, this report documents a trail of broken promises and a public health tragedy in the making. In at least one third (17) of all states, the legislature has already decided or the Governor or senior legislative leaders have proposed to spend nothing or less than 2% of the tobacco settlement dollars they receive on tobacco prevention efforts. In these states the debate has been dominated by proposals for spending the money on everything but the purposes for which the lawsuits were brought. They include, for example, proposals to reduce the cartax in Rhode Island, property tax reductions in Connecticut, college scholarships in Michigan, water projects and plan to renovate the state morgue in North Dakota, state employee payroll demands and health care for prisoners in South Dakota, debt reduction in Louisiana, Idaho and New York; school construction in Colorado and Washington, D.C., teachers retirement funds in Oklahoma, a new governmental department in Georgia, juvenile detention facilities in Alabama, sidewalk repair in Los Angeles, California, and public employee insurance in West Virginia. Another 7 states have adopted or appear likely to adopt proposals in which tobacco prevention programs will have to compete each year against a menu of other programs for funds (Kansas, Missouri, Nebraska, Wyoming, Oregon, North Carolina and Arkansas). 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These are recent significant commitments even though the funding levels fall well below the minimum level recommended by the U.S. Centers for Disease Control and Prevention. -)4 The most significant legislative action to date has occurred in the State of Washington where the legislature has budgeted \$100 million for tobacco prevention and control out of the first \$323 million the state receives from the tobacco settlement. There are also serious proposals to fund strong tobacco prevention programs currently being debated in 8 other states (New Jersey, Vermont, Ohio, Nevada, New Hampshire, Wisconsin, Minnesota and Hawaii). The outcome in each of these states is too close to call. In addition, Mississippi is in the first year of a well funded two year pilot project so that it is premature to draw any long term conclusions about what will happen there. 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The legislature responded by cutting the Attorney General's budget and legal authority to pursue civil litigation. Texas was the third state to settle with the tobacco companies. Texas has already received \$1.2 billion and will receive between \$325 and \$580 million a year annually. Like Florida and Mississippi, the Texas settlement included a provision for a pilot tobacco prevention project. Two hundred million dollars was set aside in Texas settlement agreement for the pilot project. Yet, when the issue arrived at the Texas legislature, two key legislators proposed placing the \$200 million into an endowment and funding all tobacco prevention programs now and in the future solely out of the interest from the endowment. Thus, in a state larger than Florida, the proposal was to spend no more than \$10 million a year on tobacco prevention. 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Without the vigorous effort of tobacco control advocates and key public officials, the results doubtless would be even worse. However, it is still possible to reverse the trend that this report documents. A majority of state legislatures have not yet made their final decisions about how to spend the tobacco settlement funds; others have the opportunity to refocus their spending when they meet next year. Washington also has a role to play. If the states won't keep their promise to American children, it is time that the Congress stepped up to the plate. Last year Congress had the opportunity to pass comprehensive tobacco prevention legislation and failed to do so. This year Congress again has the chance to make a difference. .h)5 The federal government pays for \$.57 of every Medicaid dollar and has a claim to a portion of the state tobacco settlement funds. No matter how state officials may now want to characterize these cases, they were prompted by an effort to seek reimbursement from the tobacco companies for the billions of dollars the states

and the federal government has spent and will spend through the Medicaid program treating tobacco caused disease. The federal government can and should have a say in how at least a portion of these funds are spent. Based on this Report, it is now clear that unless the federal government requires that at least a portion of the settlement money be spent on preventing tobacco use, the federal government's tobacco caused Medicaid bill will continue to rise uncontrollably. States that have decided to spend nothing or virtually nothing on tobacco prevention programs whose Governor has proposed and could succeed; Alabama Arizona California Colorado Connecticut Washington, DC Delaware Georgia Idaho Michigan Maine New York North Dakota Rhode Island South Carolina South Dakota Tennessee West Virginia #XXO##XXXX9#XXXXXX#3K#0#XXFL# #XXXXK#===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:27-APR-1999 14:06:12.00

SUBJECT: Re: Tobacco Free Kids report to come out TOMORROW

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:

Here's a revised version Matt just sent me.

Cynthia A. Rice

04/27/99 12:07:41 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Laura Emmett/WHO/EOP

cc: J. Eric Gould/OPD/EOP

Subject: Tobacco Free Kids report to come out TOMORROW

Here's the Campaign summary-in-progress of their report they plan to release tomorrow on how few states are using tobacco settlement funds to reduce youth smoking. They're hoping for a Post story to run tomorrow morning. Two questions for you:

(1) From this info, what would you suggest is the most compelling one sentence sound bite? Perhaps "In recent months, only four states have decided to use tobacco settlement funds to reduce youth smoking, and unless Congress and the states act, only 9 states will have comprehensive efforts to reduce youth smoking."

(2) How can we help amplify? We'll obviously do a Q&A. Any other thoughts?

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

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REPORTCARD ARECORDOF PROMISESBROKENANDAN OPPORTUNITYLOSTLast November 46 states settled the cases they had filed against the tobacco companies. When the states first filed suit against the tobacco companies, elected officials from each of the states said that they were doing so to prevent another generation of children from becoming addicted to tobacco and to reduce the amount their citizens were spending to treat tobacco caused disease. When the states settled their cases, they promised that the settlement was just the first step in their effort to reduce tobacco use, particularly among children. Through their Attorneys General they pledged that the funds from the settlement created an historic opportunity to use the tobacco companies own money to reduce tobacco use even though the Agreement that they had just signed did not dictate how to spend the money. Five months later, how are the states doing in fulfilling their promises? While many legislatures are still in session and some states have deferred action on how to spend the settlement money until next year, it is not too early to come to some preliminary conclusions. If current trends continue, the vast majority of the states will spend little or none of the tobacco settlement money on programs intended to prevent children from starting or helping current tobacco users to quit. Thus, this report documents a trail of broken promises and a public health tragedy in the making. In at least one third (17) of all states, the legislature has already decided or the Governor or senior legislative leaders have proposed to spend nothing or less than 2% of the tobacco settlement dollars they receive on tobacco prevention efforts. In these states the debate has been dominated by proposals for spending the money on everything but the purposes for which the lawsuits were brought. They include, for example, proposals to reduce the car tax in Rhode Island, property tax reductions in Connecticut, college scholarships in Michigan, water projects and plans to renovate the state morgue in North Dakota, state employee payroll demands and health care for prisoners in South Dakota, debt reduction in Louisiana, Idaho and New York; school construction in Colorado and Washington, D.C, teachers retirement funds in Oklahoma, a new governmental department in Georgia, juvenile detention facilities in Alabama, sidewalk repair in Los Angeles, California, and public employee insurance in West Virginia. Another 7 states have adopted or appear likely to adopt proposals in which tobacco prevention programs will have to compete each year against a menu of other programs for funds (Kansas, Missouri, Nebraska, Wyoming, Oregon, North Carolina and Arkansas). In these states, there is no guarantee that tobacco prevention will receive any funds in any given year, bringing to 24 the number of states in which there is no proposal currently being seriously considered to guarantee the use of the tobacco settlement funds to reduce tobacco use, even among children. The findings are not all negative. There are four states that have already made commitments to fund tobacco prevention programs beyond a minimal level. Maryland, Montana and Virginia have completed their legislative session. Maryland appropriated \$2 million for tobacco prevention programs next year; Montana appropriated \$3.5 million for these programs and Virginia allocated 10% of its settlement funds for this purpose. These are each significant commitments even though the funding levels fall well below the minimum level recommended by the U.S. Centers for Disease Control and Prevention. -)4 The most significant legislative action to date has occurred in the State of Washington where the legislature has budgeted \$100 million for tobacco prevention and control out of the first \$323 million the state receives from the tobacco settlement. There are also serious proposals to fund strong tobacco

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ORTCARD ARECORDOPROMISESBROKEN

AND AN OPPORTUNITY LOST Last November 46 states settled the cases they had filed against the tobacco companies. When the states first filed suit against the tobacco companies, elected officials from each of the states said that they were doing so to prevent another generation of

children from becoming addicted to tobacco and to reduce the amount their citizens were spending to treat tobacco caused disease. When the states settled their cases, they promised that the settlement was just the first step in their effort to reduce tobacco use, particularly among children. Through their Attorneys General they pledged that the funds from the settlement created an historic opportunity to use the tobacco companies' own money to reduce tobacco use even though the Agreement that they had just signed did not dictate how to spend the money. Critically, this debate is taking place at a time when the need for the state to take strong action to prevent tobacco use among our children is even greater than when the states first began these lawsuits in 1994. Tobacco use among teenagers is higher today than it was five years ago. The debate also comes at a time when the evidence that comprehensive tobacco prevention programs do work has become incontrovertible. In the last three months studies from Florida and Oregon have been added to earlier studies from Massachusetts and California to demonstrate that these programs can significantly reduce tobacco use among both children and adults. The lesson from these studies is that money spent on comprehensive tobacco prevention programs is money well spent. While many legislatures are still in session and some states have deferred action on how to spend the settlement money until next year, it is not too early to draw some preliminary conclusions. If current trends continue, the vast majority of the states will spend little or none of the tobacco settlement money on programs intended to prevent children from starting or help ing current tobacco users to quit. Thus, this report documents a trail of broken promises and a public health tragedy in the making. Washington also has a role to play. The federal government pays for \$.57 out of every Medicaid dollar and has a claim to a portion of the state tobacco settlement funds. No matter how state officials may now characterize these cases, they were prompted by an effort to seek reimbursement from the tobacco companies for the billions of dollars the states and the federal government have spent and will spend through the Medicaid program treating tobacco caused disease. The National Governors Association has sought to have the federal government waive its claim to these funds and return the money to the states without requiring that any of it be spent on programs to reduce tobacco use. The federal government can and should have said in how at least a portion of these funds are spent. Based on this Report, it is now clear that unless the federal government requires that at least a portion of the settlement money be spent on preventing tobacco use, the federal government's tobacco caused Medicaid bill will continue to rise uncontrollably. Five months after the settlement, how are the states doing in fulfilling their promises? There are four states that have made commitments to fund tobacco prevention programs beyond a minimal level. The most significant legislative action to date has occurred in the State of Washington where the legislature -)4 has budgeted \$100 million for tobacco prevention and control out of the first \$323 million the state receives from the tobacco settlement. Maryland, Montana and Virginia have also completed their legislative session. Maryland appropriated \$21 million for tobacco prevention programs next year; Montana appropriated \$3.5 million for these programs and Virginia allocated 10% of its settlement funds for this purpose.

These are each significant commitments even though the funding levels fall well below the minimum level recommended by the U. S. Centers for Disease Control and Prevention.

In at least one third (17) of all states, the legislature has already decided or the Governor or senior legislative leaders have proposed to spend nothing or less than 2% of the tobacco settlement dollars they receive on tobacco prevention efforts. In these states the debate has been dominated by proposals for spending the money on everything but the purposes for which the lawsuits were brought. They include, for example, proposals to reduce the car tax in Rhode Island, property tax reductions in Connecticut, college scholarships in Michigan, water projects and plans to renovate the state morgue in North Dakota, state employee payroll demands and health care for prisoners in South Dakota, debt reduction in Louisiana, Idaho and New York; school construction in Colorado and Washington, D. C, teachers retirement funds in Oklahoma, a new governmental department in Georgia, juvenile detention facilities in Alabama, sidewalk repair in Los Angeles, California, and public employees insurance in West Virginia. Another 8 states have adopted or appear likely to adopt proposals in which tobacco prevention programs will have to compete each year against a menu of other programs for funds (Kansas, Missouri, Nebraska, Wyoming, Oregon, North Carolina, New York and Arkansas). In a number of these states, New York, for example, only a portion of the settlement funds will be set aside for this purpose. In all of these states, there is no guarantee that tobacco prevention will receive

ive any funds in any given year. This brings to 25 the number of states in which there is no proposal currently being seriously considered to guarantee the use of a substantial portion of the tobacco settlement funds for program to reduce tobacco use, even among children. There are serious proposals to fund strong tobacco prevention programs currently being debated in 8 other states (New Jersey, Vermont, Ohio, Nevada, New Hampshire, Wisconsin, Minnesota and Hawaii). The outcome in each of these states is too close to call. In addition, Mississippi is in the first year of a well funded two year pilot project so that it is premature to draw any long term conclusions about what will happen there. In 9 states the decision about how to spend the tobacco settlement money has been deferred at least until next year and there has been too little discussion of how they plan to spend the money to reliably predict any specific outcome. In three of those states (Utah, Iowa and New Mexico), action was deferred after a serious debate in which the legislature was unable to reach a consensus. Of 6 states which took the lead in the tobacco settlement negotiations last Fall (Washington, New York, North Dakota, Colorado, Pennsylvania, California), only one (Washington) currently has plans to spend a significant amount of money on tobacco prevention efforts; Of the 4 states that already have comprehensive tobacco prevention programs which have published results demonstrating their effectiveness (Florida, Oregon, Massachusetts and California), not one has decided to use funds from the settlement to enhance their program next year even though the programs in California and Massachusetts have seen their funding decline in recent years; It now even appears that Florida will cut the funding for its highly successful one year old program by 35% (from \$70 million a year to \$45 million a year). This decision comes only weeks after the release of a report that the program last year reduced the single greatest one year decline in youth smoking in the United States. Washington is the only state that has adopted a proposal to spend enough on tobacco prevention and cessation to create a program comparable to the programs in the four states which have demonstrated that comprehensive tobacco prevention programs can reduce tobacco use in Florida, Oregon, Massachusetts, or California in recent years; There is a substantial disparity between the state legislature's actions and the desires of the public. For example, in Florida, 78% of the public supported funding the tobacco program at or above its 1998 level, but the legislature still cut the program's funds by 35%; in Alaska 86% of the public support spending one third of the funds (\$8.2 million) on tobacco prevention, but the legislature is poised to spend less than a fraction of that amount for this purpose. These examples are typical of public sentiment throughout the nation. Congress is seriously considering waiving the federal government's claim to a substantial portion of the tobacco settlement funds without requiring that the states pay any of the money on program to reduce tobacco use. The federal government has paid and will continue to pay over 50% of the Medicaid costs related to tobacco caused disease. The states brought these cases with great fanfare. They were going to forever alter how our government responded to the problem of tobacco use among our children. Yet, unless the current trend is reversed in the remaining days of the ongoing state legislative sessions or unless Congress insists that a portion of the funds for which the federal government has a claim be spent on programs to reduce tobacco use, this opportunity to prevent another generation of children from becoming addicted to tobacco will be lost. If that occurs, the only winners will be the tobacco companies. Three states! Colorado, North Dakota and Washington that took the lead in the negotiation that led up to the November 1998 settlement illustrate well what has occurred since the settlement was announced. Then Colorado Attorney General Gale Norton was a critical player in the negotiations from the beginning. Even before the negotiations ended she created a Task Force in Colorado that included every element of the public health community and the healthcare community to recommend how best to spend the states' recovery. Acting with unanimous consent the Task Force recommended and Attorney General Norton endorsed a proposal to spend one third of the funds on tobacco prevention and two thirds of the money on state healthcare and children's needs. Yet, when Governor Bill Owens introduced his budget for the state, he consulted none of the members of the Task Force and his proposal included not one penny for tobacco prevention, setting off an intense, still unresolved debate in the legislature. North Dakota Attorney General Heidi Heitkamp also played a unique role in the negotiations with the tobacco companies. She represented states that were too small to sue the tobacco companies on their own. As a result of her effort small states received larger per capita payments from the settlement because Attorney General Heitkamp successfully argued that there is a certain minimum level of funding needed to run an effective tobacco prevention program in a small state. What does North Dakota now plan on doing with its money? Not one penny has been committed to tobacco prevention. With the support of Governor Ed Shafer, the North Dakota House has recently endorsed a proposal to spend 45% of the funds for water projects, another 45% for public education, and 10% for public health

th initiatives. While some of the fundsear marked for public health initiatives could eventually be spent on tobacco prevention, the Administration in North Dakota has recently floated the idea of spending a significant portion of those funds to renovate the state morgue. The State of Washington presents a different picture. Attorney General Christine Gregoire led the state negotiating team last year. Later, she and Governor Gary Locke helped produce and then lined up solidly behind a plan to provide substantial funding for a strong tobacco prevention program. The entire local health community endorsed their program and after some negotiation and compromise, the state Senate appropriated \$100 million for this program. However, when the proposal got to the state House, the fight began. House Republicans proposed cutting the program's funding to \$5 million. Eventually the House Appropriations Committee passed a bill without a specific dollar earmark, leaving the fate of the tobacco prevention program up in the air until the final days of the legislative session. Then, on the last day of the session, the Governor and Attorney General succeeded in persuading the legislature to budget the full \$100 million out of the first \$323 million the state receives for tobacco prevention. With this action, Washington has taken the first step in putting in place in Washington a tobacco prevention program comparable to those that have worked elsewhere. Washington illustrates what can be accomplished with the tobacco settlement funds, but also demonstrates how difficult it will be to sustain funding for tobacco prevention programs even when the state's highest officials are solidly committed to the effort. Four other states—Florida, Massachusetts, Utah and Texas—that were early leaders in the fight against the tobacco companies are also illustrative of how the effort to reduce tobacco use among children has been captured by state political interests. Florida settled with the tobacco companies in 1997. With the funds from the settlement then Governor Lawton Chiles and Attorney General Bob Butterworth funded a two-year pilot project. Much of the first year was spent planning. The program was implemented and funded at \$70 million dollars in the second year. The results were nothing short of spectacular. In one year tobacco use among middle school students plummeted by 19% and fell by 8% among high school students. Initially, continued funding for the program seems secure when Governor Jeb Bush proposed spending \$61.5 million for the program. Nonetheless, key Republican leaders in the legislature proposed eliminating all funding for the program and on the very day that the program's positive results were announced, the head of the program was suddenly terminated. The Florida Senate went along with Governor Bush's recommendation, but the House only agreed to fund the program at \$30 million a year. A conference committee has now recommended slashing the program's budget to \$45 million, a cut of 35% despite the program's unprecedented success. Massachusetts has funded a state-wide tobacco prevention program since 1993 with funds from the state's tobacco excise tax. The program has resulted in a decline in tobacco use in Massachusetts that is four times the national average and led to far lower tobacco use rates among Massachusetts children than the national average. Nonetheless, funding for the program has declined over the last four years by 25% from \$43.1 million a year to \$31 million a year. The settlement provided an opportunity to reverse that trend and enhance one of the most successful programs in the nation. What happened? Governor Paul Cellucci did not propose spending any additional money on the program. The only funds Governor Cellucci has proposed using for tobacco-related purposes is a \$500,000 grant to study the effectiveness of the program. Utah demonstrates just how contentious some of the state's debates have become. This year the Utah legislature passed and Governor Michael Leavitt signed a bill delaying any decision on how the state will spend the tobacco settlement funds until next year. At the time the bill was passed the legislature approved a non-binding resolution that serious consideration should be given to allocating some portion of the tobacco settlement funds to tobacco prevention and substance abuse programs. S173 was enacted only after a heated dispute between Republican legislators and Attorney General Jan Graham over how to spend the settlement funds. Before the compromise was reached, Attorney General Graham publicly criticized the legislature for not agreeing to spend a significant portion of the funds on programs to reduce tobacco use. The legislature responded by cutting the Attorney General's budget and legal authority to pursue civil litigation. Texas was the third state to settle with the tobacco companies. Texas has already received \$1.2 billion and will receive between \$325 and \$580 million a year annually. Like Florida and Mississippi, the Texas settlement included a provision for a pilot tobacco prevention project. Two hundred million dollars was set aside in Texas settlement agreement for the pilot project. Yet, when the issue arrived at the Texas legislature, two key legislators proposed placing the \$200 million into an endowment and funding all tobacco prevention programs now and in the future solely out of the interest from the endowment. Thus, in a state larger than Florida, the proposal was to spend no more than \$10 million a year on tobacco prevention. The same proposal would also only devote \$200 million

illion to tobacco prevention out of the more than \$17 billion the .h)5 state is to receive from the tobacco companies over the next twenty five years. The issue has not yet been resolved. Governor George W. Bush has yet to take a position. This report truly represents a mid term Report . It documents what has occurred to date, but it also reminds us that the most critical decision s remain to be made in many states . If current trends continue, our nation will miss out on a historic opportunity and the cases that the states brought with such promise and hope will in the long run accomplish far less than fundamental change. The losers will be both our nation's children and the taxpayers of every state who will see the effect on their tax bill as the amount that they spend on tobacco caused disease continues to rise. The results of this study are cause for concern. Without the vigorous efforts of tobacco control advocates and key public officials , the results doubtless would be even worse. However, it is still possible to reverse the trend that this report documents. A majority of state legislatures have not yet made their final decisions about how to spend the tobacco settlement funds; others have the opportunity to refocus their spending when they meet next year. Alabama, Arizona, California, Colorado, Connecticut, Washington, DC, Georgia, Idaho, Massachusetts, Michigan, Maine, North Dakota, Rhode Island, South Carolina, South Dakota, Tennessee, West Virginia. Utah, Iowa, New Mexico, Kentucky, Louisiana, Indiana, Illinois, Pennsylvania, Oklahoma, #X=X ##XLXXX=#=====

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:27-APR-1999 15:19:33.00

SUBJECT: NACARA Reg and Parity proposal

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

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

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

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

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

TEXT:

1. After the last immigration meeting last week, John Morton asked me if it was our understanding that if DOJ agrees to the broad policy proposal on parity legislation that we would not seek "administrative" fixes such as DED while the legislation is pending. Please let me know if that you was understanding.

2. State Dept. rationale on the broad policy proposal - DOJ is reviewing this rationale to determine if it provides the rationale that they are seeking. You should have received a copy of it. If not, please let me know. We should plan to discuss at the Immigration Work Group meeting this Friday unless you think we need a separate meeting.

3. NACARA Reg - DOJ sent OMB a draft of the NACARA reg. Please contact Stuart Shapiro if you would like a copy. (Elena/Laura - I will send you a copy). We should discuss this draft at the meeting at the immigration meeting as well and begin thinking about next steps (consultations, roll-out, etc).

Please let me know if you have any questions or thoughts about these items.

Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:27-APR-1999 17:49:25.00

SUBJECT: race

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

I called you to talk about education chapter. It would be helpful for someone in your shop to try a minimalist approach to fixing the chapter to your satisfaction.

For starters, this would mean making sure that ESEA is discussed and highlighted in a way that you guys are comfortable with rather than in the fairly cursory way it's dealt with now.

To the extent you could edit the Compact so that it was consistent with our ESEA approach that would be useful as well.

Can you call me to discuss? tds