

**NLWJC - KAGAN**

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**[05/17/1999-05/18/1999]**

# Withdrawal/Redaction Sheet

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	William Winkler to Elena Kagan re no subject (1 page)	05/18/1999	P6/b(6)

### COLLECTION:

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

### FOLDER TITLE:

[05/17/1999-05/18/1999]

2009-1006-F

kc183

### RESTRICTION CODES

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

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

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

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

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

RR. Document will be reviewed upon request.

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAY-1999 16:33:02.00

SUBJECT: asian exec order on health

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: Mary E. Cahill ( CN=Mary E. Cahill/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

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

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

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

TEXT:

Folks--Congressman Underwood is chair of the Asian Pacific Congressional Caucus--they really want some public ceremony for Asian Heritage month--I explained the schedule so he wants the exec order done in a public way. I told we were thinking of ideas--I recall that Mary Beth said something about doing it in conjunction with the first outreach mtg--is that where we're heading? Should we be doing a photo op with folks separately from the outreach mtg???

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAY-1999 17:03:20.00

SUBJECT: draft lott/daschle letter

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

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

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

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D7]ARMS232987948.136 to ASCII,

The following is a HEX DUMP:

FF57504370040000010A020100000002050000003D110000000200001E681CB2BDAC10F6334784  
78C24C72100CF85B2DE06427C35AEBCCFFD6AD23E6FADFFC179349EB9A297EC7305B5FED2FBB1EA

May 17, 1999

The Honorable Trent Lott  
Majority Leader  
United States Senate  
Washington, DC 20510

Dear Mr. Leader:

I write to urge you to allow the Senate to complete its work on juvenile crime legislation this week, and to once again consider the Lautenberg amendment to require Brady background checks for all guns sold at gun shows. Although I recognize that there are many other important issues pending before the Senate, none is more timely or important than preventing youth violence.

In the wake of the Littleton shooting, there is broad national consensus that we must all accept responsibility and take action to help prevent youth violence. We in government have a special responsibility to enact and enforce common sense legislation that will help keep guns out of the hands of criminals and children. So I was pleased last week when the Senate voted to ban the importation of large capacity ammunition magazines, as well as the juvenile possession of all assault rifles and large capacity clips. Passing these proposals was a step in the right direction.

I remain deeply disappointed, however, that the Senate has failed to take meaningful action to prevent criminals from getting firearms at gun shows. The Senate-passed amendments on gun shows have not only failed to close the loophole in current law that allows criminals and young people to buy firearms at gun shows without so much as a Brady background check, they also will open up new loopholes in the law that will make it easier for criminals to get guns and more difficult for law enforcement to its job. Frankly, this language is simply unacceptable and should not stand. Instead, the Senate should reconsider Senator Lautenberg's amendment, with all members present, and close the gun show loophole once and for all.

Over the past few years, we have made steady progress against crime by working together. Our efforts, and those carried out in communities across the nation, are showing impressive results. This weekend the FBI released preliminary data for 1998 showing that crime is down for the seventh year in a row, the longest period of decline since the 1950's. I hope that the Senate will build on this progress by working together to debate and pass a tough, balanced juvenile crime bill that includes comprehensive measures to combat and prevent crime and gun violence -- and keep crime coming down in the 21st Century.

Sincerely,

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAY-1999 17:59:26.00

SUBJECT: Education Plan Will Ensure Equality

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

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

TEXT:

Education Plan Will Ensure Equality

By ANJETTA McQUEEN AP Education Writer

WASHINGTON (AP) -- The Clinton administration will propose that school districts receiving federal funds for poor students must ensure all their schools have the same class-size ratios, qualified teaching staff, course offerings and facilities, Education Secretary Richard W. Riley said Monday.

In a speech delivered on the 45th anniversary of a landmark school desegregation ruling, Riley said the plan -- among others to be announced Wednesday -- will narrow gaps between the rich and poor and between minority and white students.

The proposals would impact the Elementary and Secondary Education Act, a 34-year-old comprehensive law that governs most federal education programs for students in kindergarten through 12th grade. Congress is expected to renew the act later this year.

''It is incumbent upon us to build upon the legacy of Brown,''' Riley said, referring to the 1954 Supreme Court ruling in Brown vs. Board of Education of Topeka, Kan. The ruling ended deliberate racial division of the nation's schools.

Riley's  
Archives in  
``Winning  
rights campaign to  
campuses.

student  
also offer  
college, Riley

particularly  
to the next

Americans for  
groups pledged  
minority

survey by  
the registered  
action or could be

programs  
and advise  
Samu,  
Association.

On Monday, anniversary commemorations included  
speech at the Charles Sumner School Museum and  
Washington, and the White House launch of  
Together: Don't Erase the Progress,' a civil  
bolster affirmative action programs on college

Although schools with high poverty and minority  
populations had made some strides, those schools  
fewer classes that help prepare its students for  
said.

``Across the country, too many young people --  
low income and minority youth -- never make it  
level of education,' Riley said.

Nearby, at a White House conference Monday,  
a Fair Chance and other civil rights and student  
to improve programs that encourage women and  
students to attend college.

The groups said they were encouraged by a recent  
pollster Celinda Lake that found two-thirds of  
voter respondents either support affirmative  
convinced it's a good idea.

Students on more than 300 campuses will survey  
designed to make minority students feel welcome  
administrators on improving them, said Anthony  
president of the United States Students

□#AP-NY-05-17-99 1743EDT

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAY-1999 20:08:39.00

SUBJECT: OFCCP Wage Data Issue

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

You asked about Labor's Office of Federal Contract Compliance Programs (OFCCP) request to collect wage data from contractors scheduled for compliance reviews at an early stage of the compliance review process. OFCCP is asking for companies to send in this data to them so that they don't have to go onsite to as many contractors. Unless Labor asks for another extension, the issue of whether Labor's request falls under the Paperwork Reduction Act (PRA) must be resolved by May 31. Josh Gotbaum met with Labor last Friday to go over the outstanding issues. The main procedural issue is whether this request falls within the "administrative action or investigation" exemption of the PRA. If Labor's request is exempted from the PRA, then Labor does not need to weigh the burden hours to federal contractors in complying with Labor's request for data. Currently, as written, Labor's request asks for individual pay records for every employee at specific locations of about 4000 federal contractors. Sally Katzen and OMB both believe this request should be covered by the PRA and the burden to employers should be weighed.

On the merits, OMB does not disagree that Labor can ask for pay data at this early stage of the compliance review process. However, OMB would disagree with the contractors having to provide the individual pay records from every single employee at a certain location. OMB would suggest that these 4000 or so contractors instead provide a summary form showing the average pay for each occupation or some other method that would be less burdensome to the contractors and more useful to OFCCP, e.g., doing some kind of subset of the 4000 contractors. OFCCP has indicated informally (the Solicitor's Office may not agree) that they may be amenable to limiting it to employers above a certain size.

Chuck Ruff is going to meet with Sally Paxton on Wednesday to go over this issue. He is expected to agree that this should be covered by the PRA.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAY-1999 10:04:34.00

SUBJECT: LRM MNB73 - - LABOR Report on HR987 Workplace Preservation Act; H.R. 1439,

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Frank J. Seidl III ( CN=Frank J. Seidl III/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

TO: Barry T. Clendenin ( CN=Barry T. Clendenin/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

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

READ:UNKNOWN

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

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: James J. Jukes ( CN=James J. Jukes/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: Sarah S. Lee ( CN=Sarah S. Lee/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

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

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

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

LRM Small Business Administration ( LRM Small Business Administration [ UNKNOWN ] )  
READ:UNKNOWN

TEXT:

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

In particular, please note the Secretarial veto threat on H.R. 987.

----- Forwarded by Melissa N. Benton/OMB/EOP on 05/18/99

10:02 AM -----

LRM ID: MNB73

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Monday, May 17, 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 HR987 Workplace Preservation Act

DEADLINE: 1 p.m. Tuesday, May 18, 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: H.R. 987 is scheduled for Subcommittee markup the morning of Wednesday, May 19th, along with the two other OSHA bills addressed in this letter.

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52-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7760

EOP:

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- Iratha H. Waters
- Barry White
- Larry R. Matlack
- Karen Tramontano
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- Daniel J. Chenok
- Barry T. Clendenin
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- Frank J. Seidl III
- Mark E. Miller
- Robert G. Damus
- Peter Rundlet
- Randolph M. Lyon
- Sarah S. Lee
- Sandra Yamin
- Courtney B. Timberlake
- Janet R. Forsgren
- James J. Jukes

LRM ID: MNB73 SUBJECT: LABOR Report on HR987 Workplace  
Preservation Act  
RESPONSE TO  
LEGISLATIVE REFERRAL  
MEMORANDUM

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

You may also respond by:

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

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

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

FROM: \_\_\_\_\_ (Date)  
 \_\_\_\_\_ (Name)  
 \_\_\_\_\_ (Agency)  
 \_\_\_\_\_ (Telephone)

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

\_\_\_\_\_ Concur

\_\_\_\_\_ No Objection

\_\_\_\_\_ No Comment

\_\_\_\_\_ See proposed edits on pages \_\_\_\_\_

\_\_\_\_\_ Other: \_\_\_\_\_

\_\_\_\_\_ FAX RETURN of \_\_\_\_\_ pages, attached to this response sheet

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

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

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D67]ARMS29191205Q.136 to ASCII,  
The following is a HEX DUMP:

FF5750436D050000010A02010000000205000000B030000000020000530FD80A14A4B7C897744F  
05477126FAE38F2CF1023069C6EB3526E5C8554FDD31D6F5DEA5BB2B7BEF662120A4A2FF5339DF  
FC1B58F0AA1323596C26486DE9F5EE764084C68487E13BAB37ADCA540E2C92B78C5C20EE853FC8

Automated Records Management System  
Hex-Dump Conversion

The Honorable Cass Ballenger  
Chairman  
Subcommittee on Workforce Protections  
Committee on Education and the Workforce  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairman Ballenger:

I am writing to inform you of the views of the Department of Labor regarding three bills the Subcommittee on Workforce Protections may mark up this week: H.R. 987, the "Workplace Preservation Act," H.R. 1439, the "Safety and Health Audit Promotion and Whistleblower Improvement Act of 1999," and H.R. 1459, the "Models of Safety and Health Excellence Act of 1999."

H.R. 987, "Workplace Preservation Act"

The Department is strongly opposed to H.R. 987, which is intended to delay the issuance of a protective standard on ergonomics until the National Academy of Sciences (NAS) has completed another study of the scientific literature regarding musculoskeletal disorders (MSDs) and ergonomics. Each year, over 600,000 American workers suffer disabling, work-related MSDs. It is time to act to prevent these injuries and reduce the toll of suffering and the enormous economic cost they entail. Employers currently spend more than \$15-20 billion a year just on the workers' compensation associated with MSDs; the total cost of our failure to address ergonomics is as high as \$60 billion.

H.R. 987 would force the Occupational Safety and Health Administration (OSHA) to wait another 18 months to two years before issuing a standard, allegedly in the expectation that the conclusions of a new NAS study will be different from those reached by NAS just last year after a six month study commissioned by Congress and different from the conclusions of an exhaustive study by the National Institute for Occupational Safety and Health in 1997. Both of those studies concluded that MSDs are caused by physical forces in the workplace and that ergonomic solutions can reduce those forces and reduce the risk of MSDs.

Major public health organizations, medical societies and scientific groups, including the American College of Occupational and Environmental Medicine, the American Public Health Association, the American Nurses Association, and the American Academy of Orthopedic Surgeons oppose H.R. 987 and urge OSHA to move ahead with a protective standard. After more than ten years of experience with ergonomic programs in the red meat industry, exhaustive scientific study, and millions of unnecessary injuries, it is clearly time to move ahead.

I urge the Subcommittee to not act favorably on H. R. 987. If H.R. 987 were enacted by the Congress, I would recommend that the President veto the legislation.

H.R. 1439, "Safety and Health Audit Promotion and Whistleblower Improvement Act of 1999"

A second bill to be marked up is the Chairman's bill, H.R. 1439, which addresses two important, but unrelated issues, OSHA's access to and use of employer records in enforcement proceedings and the Occupational Safety and Health Act's outdated and inadequate protections against retaliation for employees who "blow the whistle" on safety violations or refuse to engage in unreasonably dangerous work. Although I appreciate the courtesy you have shown by sharing the draft bill with us and in soliciting suggestions for improvement, we cannot support H.R. 1439 because it does not make adequate changes in the Act's protections for whistleblowers and its treatment of employer self-audits will interfere with the proper enforcement of the OSH Act.

H.R. 1439 makes three positive changes in section 11(c) of the OSH Act, the provision of the Act that protects whistleblowers against retaliation: it lengthens the statute of limitations from 30 days to 60 days; it provides for an administrative remedy in the Occupational Safety and Health Review Commission instead of requiring the Secretary to pursue relief for employees in federal district court; and it allows the employee to pursue his or her own case if the Department of Labor moves too slowly or decides against pursuing the employee's case at all.

Nevertheless, each of those provisions is not as strong nor as effective as related provisions the Administration has forwarded to Congress in the Hazard Reporting Protection Act of 1999. We feel strongly that the statute of limitations under section 11(c) should be 180 days, rather than 60 days. We believe that Department of Labor's Administrative Law Judges would provide a faster and more reliable forum for trying whistleblower cases than the Review Commission, which often finds itself without a quorum or with only two members who cannot act to resolve a case, and which has no expertise in retaliation and employment discrimination cases. And while H.R. 1439 allows employees to pursue their own cases, it does not provide for interim relief, a critical remedy that can make it possible for employees with no source of income to pursue lengthy litigation to vindicate their rights.

Moreover, it appears that H.R. 1439 eliminates important remedies that are currently available under section 11(c), the right to recover compensatory and exemplary damages. While exemplary damages have rarely been awarded, they provide an important deterrent against employer misconduct, and compensatory damages are vital to assuring that whistleblowers who have suffered discrimination are made whole. The Administration's Hazard Reporting Protection Act of 1999 explicitly provides for compensatory and exemplary damages, and provides for the award of costs and attorney fees to the prevailing plaintiff.

As for the self-audit provisions of H.R. 1439, the Department is deeply concerned with the extraordinarily broad privileges for employer self-audit information that the bill would afford. The bill would provide that virtually any employer evaluation of workplace conditions, practices, or operations could be withheld by the employer in any OSHA inspection or enforcement proceeding, with narrow exceptions. The bill protects **any** information obtained or prepared in connection with safety and health audits, and defines an audit as including **any** evaluation of

Automated Records Management System  
Hex-Dump Conversion

workplace conditions, practices, processes, operations, or systems designed to identify and prevent potential or real workplace hazards. In short, even the smallest amount of knowledge an employer gains through a daily walkaround of a plant, or from a conversation about a particular process, is immune from disclosure to OSHA. In effect, this bill would immunize from disclosure all knowledge an employer has about safety or health in his workplace, or about his workplace's compliance with the OSH Act.

The key problem with the bill is that it would place off-limits to OSHA the very information it needs to determine whether there has been a violation of the Act, unless OSHA first establishes that a violation exists -- a greater impediment to OSHA enforcement would be hard to devise. In many cases, particularly those involving workplace accidents, employer records provide not only the best evidence but the only evidence. The bill's requirement that OSHA independently establish any violation before having access to employer-generated information would bar OSHA from access to the very information it needs to accurately assess conditions at the workplace, and would gravely impair the agency's ability to enforce the Act. The bill's supposed exception for cases where the Secretary proves employer bad faith amounts to requiring the agency to prove a willful violation before it is even granted access to the most basic health and safety data.

Conscientious employers know that there are many advantages to employer-sponsored workplace audits and evaluations, and do not need an added incentive. Employers who can demonstrate good faith efforts to identify and correct workplace hazards have learned they have everything to gain by sharing this information with OSHA. On the other hand, an employer who learns of hazardous conditions but who has taken no action to protect his employees, may have reason to conceal such audits from OSHA. The self-audit provisions of H.R. 1439 would primarily benefit such employers. Because these provisions would seriously impair OSHA's compliance program without contributing to employee health or safety, the Department strongly opposes H.R. 1439.

H.R. 1459, "Models of Safety and Health Excellence Act of 1999"

The Department is a strong supporter of the Voluntary Protection Program (VPP), which would be codified by H.R. 1459. I would like to thank the sponsors of the bill, Representative Petri and Representative Andrews, who shared drafts of H.R. 1459 with OSHA and asked for our comments before introducing the bill. While we would like to work with you further on the employee participation requirement, we are pleased to say that we endorse your efforts to codify the program, and believe it will help raise the stature of the VPP, OSHA's oldest and most important recognition program for excellence in workplace safety and health management and cooperation.

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

Sincerely,

Automated Records Management System  
Hex-Dump Conversion

Alexis M. Herman

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAY-1999 10:29:01.00

SUBJECT: Urgent -- Treasruy/Education Veto Letter -- comments due by 2 PM today

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

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

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

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

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

TO: Mary C. Barth ( CN=Mary C. Barth/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

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

TO: Elizabeth M. Hoffman ( CN=Elizabeth M. Hoffman/OU=CEQ/O=EOP@EOP [ UNKNOWN ] )  
READ:UNKNOWN

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

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

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

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

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

TO: ogc\_legislation ( ogc\_legislation @ ed.gov @inet [ UNKNOWN ] )  
READ:UNKNOWN

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

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

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

TO: Alexander T. Hunt ( CN=Alexander T. Hunt/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

The attached letter contains a veto threat on the unnumbered Senate bill scheduled for markup by the Senate Finance Committee as soon as tomorrow. The Senate bill contains objectionable provisions similar to those in the 105th Congress' HR 2646, which the President vetoed.

A hard copy of the attached will not be sent to EXOP reviewers.

LRM ID: REJ92

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Tuesday, May 18, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution  
below

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

OMB CONTACT: Ronald E. Jones

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

SUBJECT: TREASURY/EDUCATION Report on S\_\_\_ Education Tax  
Incentives

DEADLINE: 2:00 PM today Tuesday, May 18, 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 attached letter contains a veto threat on the unnumbered Senate bill scheduled for markup by the Senate Finance Committee as soon as tomorrow. The Senate bill contains objectionable provisions similar to those in the 105th Congress' HR 2646, which the President vetoed.

DISTRIBUTION LIST

AGENCIES:

118-TREASURY - Richard S. Carro - (202) 622-0650  
30-EDUCATION - Jack Kristy - (202) 401-8313  
76-National Economic Council - Sonyia Matthews - (202) 456-6630  
61-JUSTICE - Jon P. Jennings - (202) 514-2141

EOP:

Gene B. Sperling

Elena Kagan  
Bruce N. Reed  
Michael Cohen  
Joseph J. Minarik  
Barbara Chow  
Charles E. Kieffer  
Michael Deich  
Tracey E. Thornton  
Elizabeth M. Hoffman  
Robert G. Damus  
Barry White  
Wayne Upshaw  
Mary C. Barth  
Alexander T. Hunt  
Janet R. Forsgren  
Constance J. Bowers  
Lorenzo Rasetti  
James J. Jukes

LRM ID: REJ92 SUBJECT: TREASURY/EDUCATION Report on S\_\_\_\_  
Education Tax Incentives  
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.



Automated Records Management System  
Hex-Dump Conversion

Dear Mr. Chairman, [Dear Senator Moynihan]

We write to express our strong opposition to proposals for education tax incentives (Joint Committee on Taxation, "Description of Chairman's Mark of Proposals Relating to Education Incentives" (JCX-020-99), May 17, 1999), which we understand your Committee will consider this week. In the summer of 1997, as Congress was in the final stages of consideration of the Taxpayer Relief Act of 1997, the President stated that he would veto the legislation if it contained a proposal relating to Education Savings Accounts that is similar to the education savings account proposals contained in the Chairman's Mark. In 1998, we wrote to inform you that we would recommend to the President that he veto similar legislation, which, after consideration and approval by Congress, he did. If these proposals were to pass the Congress this year, we again would recommend to the President that he veto the bill.

Every American child deserves a high quality elementary and secondary education. We believe that targeting our limited Federal resources to build stronger public schools will help ensure all our children receive the education they need to be productive citizens. Public schools serve approximately 90 percent of students in grades K-12 and currently face record-breaking enrollments. By focusing resources on public schools, we can leverage community investment to help parents, teachers, and administrators meet the important educational challenges they face in serving the vast majority of our children: meeting high standards for learning and discipline; fixing school buildings; and providing a safe, drug-free environment for children. For this reason, the President's FY 2000 budget proposals includes a school modernization bond initiative that would leverage \$25 billion of new public school construction. In contrast, the Chairman's Mark diverts needed attention and resources from our public schools.

The current bill disproportionately benefits the most affluent families and provides little benefit to lower-and middle-income families. Additionally, given the expansion of tax-preferred savings vehicles in the Taxpayer Relief Act of 1997, we do not believe that further increasing the contribution limits for Education IRAs will generate much additional savings. Instead, the Chairman's Mark would reward families, particularly those with significant means, for what they would do absent any increase.

We are also concerned that the bill would create significant compliance problems. The legislation allows tax-free withdrawals from Education IRAs for, among other things, tuition, fees, academic tutoring, special needs services, books, supplies and equipment expenses incurred in connection with the child's enrollment or attendance at a public or private school. Withdrawals are also tax-free if used for room and board, uniforms, transportation or supplementary items or services required or provided by the school. Distinguishing between an appropriately tax-free withdrawal and one that should be subject to tax would lead to significant additional record keeping burdens for families and schools, as well as disputes when discretionary purchases are made.

We, therefore, urge the Committee not to approve this legislation.

Automated Records Management System  
Hex-Dump Conversion

We understand that Senator [Robb] intends to offer a substitute that would replace the education IRA proposals in this bill with school modernization/construction bond proposals similar to those in the President's budget for FY 2000. We strongly prefer that proposal and other alternatives that devote Federal revenue to improving the public schools so that a high-quality education is available to every American child regardless of their family income. Therefore, we strongly support Senator [Robb]'s substitute.

Sincerely,

Robert E. Rubin  
Secretary of the Treasury

Richard W. Riley  
Secretary of Education

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAY-1999 11:13:28.00

SUBJECT: Reminder--comments on LRM MNB72 - - LABOR Report on HR1381 Rewarding Perfo

TO: Courtney B. Timberlake ( CN=Courtney B. Timberlake/OU=OMB/O=EOP@EOP [ OMB ] )  
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

TEXT:

This is a reminder that your comments on the subject report are due.

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

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	William Winkler to Elena Kagan re no subject (1 page)	05/18/1999	P6/b(6)

### COLLECTION:

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

### FOLDER TITLE:

[05/17/1999-05/18/1999]

2009-1006-F

kc183

### RESTRICTION CODES

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

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

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

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

RR. Document will be reviewed upon request.

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

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Michael Waldman ( CN=Michael Waldman/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:18-MAY-1999 11:40:25.00

SUBJECT: does this subsume/differ from the Edley proposals for the race book?

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Education Plan Will Ensure Equality

WASHINGTON (AP) □\* Education Secretary Richard W. Riley says the administration will propose that school districts receiving federal funds for poor students be required to make sure all schools have the same class-size ratios, qualified teaching staff, course offerings and facilities.

In a speech Monday marking the 45th anniversary of a landmark school desegregation ruling, Riley said the plan □\* among others to be announced Wednesday □\* would narrow gaps between the rich and poor and between minority and white students.

The proposals would involve changes in the Elementary and Secondary Education Act, a 34-year-old law Congress is expected to renew this year.

``It is incumbent upon us to build upon the legacy of Brown,`` Riley said, referring to the 1954 Supreme Court ruling in Brown vs. Board of Education of Topeka, Kan. The ruling ended deliberate racial division of the nation's schools.

Although schools with high poverty and minority student populations had made some strides, those schools also offer fewer classes that help prepare their students for college, Riley said.

At a White House conference Monday, Americans for a Fair Chance and other civil rights and student groups pledged to improve programs that encourage women and minority students to atte

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAY-1999 11:43:41.00

SUBJECT: race book

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

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

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

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

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

TEXT:

Idea seems to be to get POTUS a new draft of book before he leaves on vacation at beginning of next week. I will send a memo along with it outlining major disputed issues. This means that you've got to speak rapidly (about anything you haven't spoken on yet, such as civil rights) or hold your peace. Same deal on the NEC side of life. tds

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAY-1999 14:08:50.00

SUBJECT: copycats

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

READ:UNKNOWN

TEXT:

We'd like to suggest changing the copycat guidance -- seems to blame the media in a way that puts us right in the middle of those stories. What do you think?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAY-1999 14:11:41.00

SUBJECT: NACARA Roll-out document

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

READ:UNKNOWN

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

READ:UNKNOWN

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

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: Erica R. Morris ( CN=Erica R. Morris/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

In my edits to the INS Press document on the NACARA reg, I suggest adding to the last paragraph on the first page some recognition of the President's role in this process and the sentence would therefore read:

"As President Clinton directed, this new program is the culmination of the Administration's efforts to create as accessible and simple a process as the law permits," says INS Commissioner Meissiner.

Please let me know if you have any concerns adding this reference to the President.

Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAY-1999 14:20:58.00

SUBJECT: Re: NACARA Roll-out document

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

I'm uncomfortable with the sentence as written, especially "directed"---how about something like; " In keeping with the commitment president Clinton made when he visited Central America in the spring, the new program is as accessible and simple as the law permits."--edits welcomed

Irene Bueno

05/18/99 02:11:36 PM

Record Type: Record

To: Elena Kagan/OPD/EOP@EOP, Maria Echaveste/WHO/EOP@EOP, Scott Busby/NSC/EOP@EOP, Janet Murguia/WHO/EOP@EOP

cc: Leslie Bernstein/WHO/EOP@EOP, Laura Emmett/WHO/EOP@EOP, Erica R. Morris/WHO/EOP@EOP

Subject: NACARA Roll-out document

In my edits to the INS Press document on the NACARA reg, I suggest adding to the last paragraph on the first page some recognition of the President's role in this process and the sentence would therefore read:

"As President Clinton directed, this new program is the culmination of the Administration's efforts to create as accessible and simple a process as the law permits," says INS Commissioner Meissiner.

Please let me know if you have any concerns adding this reference to the President.

Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAY-1999 15:28:24.00

SUBJECT: ESEA Release

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Education would like to release the ESEA Fact Sheet tomorrow. OMB staff said that the fact sheet normally accompanies the legislation -- which isn't going up until Friday.

OMB per Barbara is ok with letting the Dept release the Fact Sheet early -- if you are. Given that the Department will also release its 100-plus page prospectus/guide to ESEA tomorrow, there doesn't seem to be much harm in releasing the fact sheet.

Please let me know how you want to proceed and I will get back to OMB.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAY-1999 15:52:11.00

SUBJECT: DRAFT DoL Letters for Clearance TODAY

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Brian V. Kennedy ( CN=Brian V. Kennedy/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

CC: Jade L Riley ( CN=Jade L Riley/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

ATTACHED BELOW ARE TWO LETTERS FOR YOUR CLEARANCE. I'VE PROVIDED A SUMMARY ON EACH.

WE AIM TO CLEAR THIS BY 5:00PM TODAY. PLEASE E-MAIL TO ME YOUR CONCURRENCE OR COMMENTS ASAP. THANKS

H.R. 987 -- Workplace Preservation Act, H.R. 1439 -- Safety and Health Audit Promotion and Whistleblower Improvement Act, and H.R. 1459 -- Models of Safety and Health Excellence Act, are scheduled for mark-up by the Subcommittee on Workforce Protections, Committee on Education and the Workforce, Wed., May 18 at 10:30AM.

H.R. 987 -- Workplace Preservation Act: Secretarial VETO recommendation.

H.R. 1439 -- Safety and Health Audit Promotion and Whistleblower Improvement Act: Strongly oppose.

H.R. 1459 -- Models of Safety and Health Excellence Act: Support

H.R. 1381 -- Rewarding Performance in Compensation Act is scheduled for mark-up by the Subcommittee on Workforce Protections, Committee on

Education and the Workforce, Wed., May 18 at 10:30AM. The draft letter contains a Secretarial Veto recommendation.

BACKGROUND: H.R. 1381, the "Rewarding Performance in Compensation Act", would amend the Fair Labor Standards Act (FLSA) to prevent incentive bonuses (e.g., commissions) from being included in an employee's "regular rate" of pay for the purposes of calculating overtime compensation.

Under current law, covered employees are guaranteed compensation for hours worked beyond the 40-hour workweek. Overtime compensation is defined as 1.5 times the "regular rate" of pay, and now includes payments such as performance bonuses and commissions. The sponsors of H.R. 1381 argue that current law deters employers from rewarding their FLSA-covered employees by complicating their accounting processes and increasing overtime costs.

Labor's argument (and the argument of organized labor) is that the bill could lead employers to reduce the hourly wages of their employees, paying a larger portion of their salary in the form of bonuses in order to avoid paying a higher overtime rate. It views the bill as diminishing employees' rights to just overtime compensation under the FLSA and as a threat to the 40-hour week. In particular, DOL argues that it allows employers to pay artificially low hourly wages with "excludable" bonus pay based on production or efficiency that would diminish workers' compensation for extra work.

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

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D4]ARMS20865605U.136 to ASCII,  
The following is a HEX DUMP:

FF5750432C180000010A0201000000020500000014270000000200000261B445F337931805DB675  
9518B54967EF33C8AD0FE980008525B14765431098E211F54C7C55CB392FF49B8A9C75CBAF3CDB  
FDF574E598F5B326CA6C36AF5A3482A499552EC053C037436CBFF91C925202AF554BC08C15F708

Automated Records Management System  
Hex-Dump Conversion

The Honorable Cass Ballenger  
Chairman  
Subcommittee on Workforce Protections  
Committee on Education and the Workforce  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairman Ballenger:

I am writing to provide you with the views of the Department of Labor on H.R. 1381, the "Rewarding Performance in Compensation Act." This bill would amend the Fair Labor Standards Act (FLSA) to exclude from the definition of *regular rate* payments made to reward employees for meeting or exceeding productivity, quality, efficiency, or sales goals as specified in a gainsharing, incentive bonus, commission, or performance contingent bonus plan. The effect of this amendment would be to diminish employees' entitlements to overtime premium pay under the FLSA. The Department of Labor strongly opposes this bill.

This bill would substantially reverse the FLSA's long-standing overtime policy and drastically weaken existing protections for workers. It represents an assault on the 40-hour workweek and an employee's right to receive true time-and-a-half overtime premium pay. Moreover, this bill does nothing to guarantee to workers that they would ever share in their employers' gains that would come from their having to work excessive overtime hours.

The bill would allow an employer to pay artificially low hourly wages and structure a compensation scheme with "excludable" bonus pay that is based upon production or efficiency, enabling an employer to effectively transfer much of its risk to the workers. The bill would not guarantee workers the right to receive any incentive compensation, but it would guarantee employers the right to exclude any such pay from overtime. Workers' only rights if this bill became law would be overtime at time-and-a-half at their artificially decreased hourly wage, not their true regular rate. This will have the perverse effect of encouraging employers to work their employees for longer hours with no guaranteed compensation for their extra work, exactly the opposite of the original intent of the FLSA's overtime standards.

Automated Records Management System  
Hex-Dump Conversion

The Department strongly opposes this bill's attempt to undermine workers' rights and the 40-hour workweek. These requirements, which have been in place for over 60 years, provide vital worker protections that discourage employers from working employees excessively long hours and ensure fair compensation to employees for the burdens of working extended hours for their employer. Because it is contrary to the best interests of the Nation's workers who would be affected by it, if this bill were presented to the President, I would recommend that he veto it.

The Office of Management and Budget has advised that there is no objection to the presentation of this report and that enactment of H.R. 1381 would not be in accord with the Administration's program.

Sincerely,

Alexis M. Herman

The Honorable Cass Ballenger  
Chairman  
Subcommittee on Workforce Protections  
Committee on Education and the Workforce  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairman Ballenger:

I am writing to inform you of the views of the Department of Labor regarding three bills the Subcommittee on Workforce Protections may mark up this week: H.R. 987, the "Workplace Preservation Act," H.R. 1439, the "Safety and Health Audit Promotion and Whistleblower Improvement Act of 1999," and H.R. 1459, the "Models of Safety and Health Excellence Act of 1999."

H.R. 987, "Workplace Preservation Act"

The Department is strongly opposed to H.R. 987, which is intended to delay the issuance of a protective standard on ergonomics until the National Academy of Sciences (NAS) has completed another study of the scientific literature regarding musculoskeletal disorders (MSDs) and ergonomics. Each year, over 600,000 American workers suffer disabling, work-related MSDs. It is time to act to prevent these injuries and reduce the toll of suffering and the enormous economic cost they entail. Employers currently spend more than \$15-20 billion a year just on the workers' compensation associated with MSDs; the total annual cost of our failure to address ergonomics may be as high as \$60 billion.

During the negotiations on the FY 1999 Omnibus Appropriations Act, Congress and the Administration agreed that the Department would proceed with promulgating its ergonomics rule while the NAS conducted its study. H.R. 987 would undermine this agreement by forcing the Occupational Safety and Health Administration (OSHA) to wait another 18 months to two years before issuing a standard, allegedly in the expectation that the conclusions of a new NAS study will be different from those reached by (1) NAS just last year after a six month study commissioned by Congress; and (2) the National Institute for Occupational Safety and Health, which completed an exhaustive study in 1997. Both of those studies concluded that MSDs are caused by physical forces in the workplace and that ergonomic solutions can reduce those forces and reduce the incidence of MSDs.

Major public health organizations, medical societies and scientific groups, including the American College of Occupational and Environmental Medicine, the American Public Health Association, the American Nurses Association, and the American Academy of Orthopedic Surgeons oppose H.R. 987 and urge OSHA to move ahead with a protective standard. After more than ten years of experience with ergonomic programs in the red meat industry, exhaustive scientific study, and millions of unnecessary injuries, it is clearly time to move ahead.

I urge the Subcommittee to vote against H. R. 987. If H.R. 987 were presented to the President

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for his signature in its current form , I would recommend that the President veto the legislation.

H.R. 1439, "Safety and Health Audit Promotion and Whistleblower Improvement Act of 1999"

A second bill to be marked up is the Chairman's bill, H.R. 1439, which addresses two important, but unrelated issues : OSHA's access to and use of employer records in enforcement proceedings, and the Occupational Safety and Health Act's outdated and inadequate protections against retaliation for employees who "blow the whistle" on safety violations or refuse to engage in unreasonably dangerous work. Although I appreciate the courtesy you have shown by sharing the draft bill with us and in soliciting suggestions for improvement, we cannot support H.R. 1439 in its current form. This bill fails to make adequate changes in the Act's protections for whistleblowers and hampers enforcement of the OSH Act through its treatment of employer self-audits

H.R. 1439 makes three positive changes in section 11(c) of the OSH Act, the provision of the Act that protects whistleblowers against retaliation: it lengthens the statute of limitations from 30 days to 60 days; it provides for an administrative remedy in the Occupational Safety and Health Review Commission instead of requiring the Secretary to pursue relief for employees in federal district court; and it allows the employee to pursue his or her own case if the Department of Labor moves too slowly or decides against pursuing the employee's case at all.

Nevertheless, each of those provisions is not as strong nor as effective as related provisions the Administration has forwarded to Congress in the Hazard Reporting Protection Act of 1999. We feel strongly that the statute of limitations under section 11(c) should be 180 days, rather than 60 days. We believe that Department of Labor's Administrative Law Judges would provide a faster and more reliable forum for trying whistleblower cases than the Review Commission, which often finds itself without a quorum or with only two members who cannot act to resolve a case, and which has no expertise in retaliation and employment discrimination cases. And while H.R. 1439 allows employees to pursue their own cases, it does not provide for interim relief, a critical remedy that can make it possible for employees with no source of income to pursue lengthy litigation to vindicate their rights.

Moreover, it appears that H.R. 1439 eliminates important remedies that are currently available under section 11(c), the right to recover compensatory and exemplary damages. While exemplary damages have rarely been awarded, they provide an important deterrent against employer misconduct, and compensatory damages are vital to assuring that whistleblowers who have suffered discrimination are made whole. The Administration's Hazard Reporting Protection Act of 1999 explicitly provides for compensatory and exemplary damages, and provides for the award of costs and attorney fees to the prevailing plaintiff.

As for the self-audit provisions of H.R. 1439, the Department is deeply concerned with the extraordinarily broad privileges for employer self-audit information that the bill would afford.

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The bill would provide that virtually any employer evaluation of workplace conditions, practices, or operations could be withheld by the employer in any OSHA inspection or enforcement proceeding, with narrow exceptions. The bill protects **any** information obtained or prepared in connection with safety and health audits, and defines an audit as including **any** evaluation of workplace conditions, practices, processes, operations, or systems designed to identify and prevent potential or real workplace hazards. In short, even the smallest amount of knowledge an employer gains through a daily walkaround of a plant, or from a conversation about a particular process, is immune from disclosure to OSHA. In effect, this bill would immunize from disclosure all knowledge an employer has about safety or health in his workplace, or about his workplace's compliance with the OSH Act.

The key problem with the bill is that it would place off-limits to OSHA the very information it needs to determine whether there has been a violation of the Act, unless OSHA first establishes that a violation exists -- a greater impediment to OSHA enforcement would be hard to devise. In many cases, particularly those involving workplace accidents, employer records provide not only the best evidence but the only evidence. The bill's requirement that OSHA independently establish any violation before having access to employer-generated information would bar OSHA from access to the very information it needs to accurately assess conditions at the workplace, and would gravely impair the agency's ability to enforce the Act. The bill's supposed exception for cases where the Secretary proves employer bad faith amounts to requiring the agency to prove a willful violation before it is even granted access to the most basic health and safety data.

Conscientious employers know that there are many advantages to employer-sponsored workplace audits and evaluations. Employers who can demonstrate good faith efforts to identify and correct workplace hazards have learned they can benefit from sharing this information with OSHA. On the other hand, an employer who learns of hazardous conditions but who has taken no action to protect his employees, may have reason to conceal such audits from OSHA. The self-audit provisions of H.R. 1439 would primarily benefit such employers. Because these provisions would seriously impair OSHA's compliance program without contributing to employee health or safety, the Department strongly opposes H.R. 1439.

H.R. 1459, "Models of Safety and Health Excellence Act of 1999"

The Department is a strong supporter of the Voluntary Protection Program (VPP), which would be codified by H.R. 1459. I would like to thank the sponsors of the bill, Representative Petri and Representative Andrews, who shared drafts of H.R. 1459 with the Department and asked for our comments before introducing the bill. While we would like to work with you further on the employee participation requirement, we are pleased to say that we endorse your efforts to codify the program, and believe it will help raise the stature of the VPP, OSHA's oldest and most important recognition program for excellence in workplace safety and health management and cooperation.

The Office of Management and Budget has advised that there is no objection to the presentation

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of this report from the standpoint of the Administration's program.

Sincerely,  
Alexis M. Herman

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAY-1999 17:00:42.00

SUBJECT: REVISED -- Treas/Education Veto Letter

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

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

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

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

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

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

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

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

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

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

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

CC: Jade L Riley ( CN=Jade L Riley/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

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

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

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

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

TEXT:

Attached is the revised Rubin/Riley letter that contains a veto threat on the unnumbered Senate bill scheduled for markup by the Senate Finance Committee as soon as tomorrow. The Senate bill contains objectionable



**Education and Treasury agree on this version [5/18/99, 4:00 PM], subject to ED review of additional Treasury edits**

Dear Mr. Chairman, [Dear Senator Moynihan]

We write to express our strong opposition to proposals for education tax incentives (Joint Committee on Taxation, "Description of Chairman's Mark of Proposals Relating to Education Incentives" (JCX-020-99), May 17, 1999), which we understand your committee will consider this week. In the summer of 1997, as Congress was in the final stages of consideration of the Taxpayer Relief Act of 1997, the President stated that he would veto the legislation if it contained a proposal relating to Education Savings Accounts that is similar to the education savings account proposal contained in the Chairman's mark. In 1998, we wrote to inform you that we would recommend to the President that he veto similar legislation, which, after consideration and approval by Congress, he did. If this proposal were to pass the Congress this year, we again would recommend to the President that he veto the bill.

Every American child deserves a high-quality elementary and secondary education. We believe that targeting our limited Federal resources to build stronger public schools will help ensure that all our children receive the education they need to be productive citizens. Public schools serve approximately 90 percent of students in grades K-12 and currently face record-breaking enrollments. By focusing resources on public schools, we can leverage community investment to help parents, teachers, and administrators meet the important educational challenges they face in serving the vast majority of our children: meeting high standards for learning and discipline; fixing school buildings; and providing a safe, drug-free environment for children. For this reason, the President's FY 2000 budget proposals include a school modernization bond initiative that would leverage \$25 billion to renovate and build up to 6,000 public schools. In contrast, the Chairman's mark diverts needed attention and resources from our public schools, and it falls far short of adequately addressing the overwhelming problems that States and local communities face in building and modernizing their schools.

The current bill disproportionately benefits the most affluent families and provides little benefit to lower- and middle-income families. Additionally, given the expansion of tax-preferred savings vehicles in the Taxpayer Relief Act of 1997, we do not believe that further increasing the contribution limits for Education IRAs will generate much additional savings. Instead, the Chairman's mark would reward families, particularly those with significant means, for what they would do in any case.

We are also concerned that the bill would create significant compliance problems. The legislation allows tax-free withdrawals from Education IRAs for, among other things, tuition, fees, academic tutoring, special needs services, books, supplies and equipment expenses incurred in connection with the child's enrollment or attendance at a public or private elementary or secondary school. Withdrawals would also be tax-free if used for room and board, uniforms, transportation or supplementary items or services required or provided by the school. Distinguishing between an appropriately tax-free withdrawal and one that should be subject to tax would lead to significant additional record-keeping burdens for families and schools, as well as disputes when discretionary purchases are made.

We, therefore, urge the Committee not to approve this legislation.

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We understand that Senators Robb and Conrad intend to offer a substitute that would replace the education IRA proposals in this bill with school modernization/construction bond proposals similar to those in the President's budget for fiscal year 2000. We strongly prefer that proposal and other alternatives that devote Federal revenue to improving the public schools so that a high-quality education is available to every American child regardless of his or her family income. Therefore, we strongly support the Robb-Conrad substitute.

Sincerely,

Robert E. Rubin  
Secretary of the Treasury

Richard W. Riley  
Secretary of Education

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAY-1999 17:09:05.00

SUBJECT: Paper on ESEA

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:

I never did catch up with Mike Cohen -- here is paper that summarizes key points in the bill.===== ATTACHMENT 1 =====

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

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D58]ARMS233157050.136 to ASCII,  
The following is a HEX DUMP:

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**PRESIDENT CLINTON: EDUCATIONAL EXCELLENCE FOR ALL CHILDREN**  
**May 19, 1999**

Today, the President announced that he will transmit to Congress this week the "Educational Excellence for All Children Act of 1999", his proposal to reauthorize the Elementary and Secondary Education Act of 1965. This legislation authorizes the Federal government's single largest investment in elementary and secondary education and is its most significant effort to ensure that all children receive a quality education. This proposal will provide strengthened accountability measures, ensure teacher quality, provide safe, disciplined and drug-free schools as well as reauthorize programs such as Title I (aid to disadvantaged students), bilingual education, magnet schools, and programs that support technology in schools.

**ACCOUNTABILITY FOR RESULTS.** The President's ESEA proposal incorporates a package of accountability measures that he announced in his State of the Union Address and that are designed to ensure that school districts and states provide students with a high quality education by holding students, teachers and schools to high standards. Our emphasis on accountability in ESEA will build on, support, and encourage State and local efforts to develop and implement challenging standards for all children by requiring states to fix failing schools, issue report cards to parents on how schools are doing, and end the practice of social promotion by ensuring that students are meeting challenging standards on-time.

**Identify and Turn Around Failing Schools.** The President's proposal will require states and school districts to publicly identify the lowest-performing schools and intervene to turn them around. These interventions would include steps such as intensive teacher training, extended learning opportunities and the implementation of proven approaches to school reform. If there is no satisfactory improvement in student performance within two years, districts would be required to take corrective actions, such as permitting students to attend other public schools; reconstituting the school and making significant staff changes; or closing the school entirely and reopening it as a charter school. Nineteen states currently take similar actions to turn around low-performing schools, and experience demonstrates that when these interventions are carefully implemented and accompanied by the necessary resources, schools do improve and student achievement increases.

**Issue Report Cards to Empower Parents.** The President's proposal will require states and school districts to distribute to all parents annual report cards for each school and school districts, as well as for the state as a whole. These report cards will include information on student achievement, teacher qualifications, class size, school safety, and attendance and graduation rates. Where appropriate, the report cards will show academic achievement by demographic groups, to help focus on the need to close the achievement gap between disadvantaged students and their peers. Thirty-six states currently publish or require local school districts to publish school report cards, and five additional states will begin the practice in the next two years. A recent report by Public Agenda, however, shows that

only 31 percent of parents had seen these report cards. The President's proposal will help ensure that all parents have access to the information they need to evaluate the quality of their schools and identify the areas in which improvement is needed.

**End Social Promotion and Help All Students Meet Challenging Standards.** The President's proposal will require states and school districts to end social promotion --the practice of promoting students from grade to grade regardless of whether they have mastered the appropriate material and are academically prepared to do the work at the next level. Students will have to demonstrate that they meet standards at three key transition points, including graduation from high school. Students who are promoted without regard to their achievement fall even further behind their classmates, and are more likely to lack basic skills upon graduating from high school. Studies also show that students who are simply retained in grade with no additional intervention are at greater risk of dropping out.

**Supporting Students Who Need Extra Help.** To ensure that this requirement helps more students succeed and meet standards on-time, the President's proposal would hold states and school districts accountable for supporting students who need additional help to meet academic standards by: (1) requiring early identification and intervention for students who need extra help; (2) strengthening learning opportunities in the classroom; (3) creating smaller classes with well-prepared teachers; (4) encouraging high-quality professional development for teachers; and (5) providing extended learning time for students who need extra help, including after-school and summer school programs.

**Smaller Classes.** The President's proposal will authorize continuation of his **Class-Size Reduction initiative** -- which seeks to hire 100,000 teachers to reduce class size to a nationwide average of 18 in the early grades -- to give all students the individual attention they need to master the basics and meet challenging standards on time. Over seven years, this initiative would provide a total of \$12.6 billion to help communities across the nation support 100,000 well-prepared teachers. Studies show that smaller classes help teachers provide more personal attention to students and spend less time on discipline; as a result students learn more and get a stronger foundation in the basic skills.

**Extended Learning Time: After-School and Summer School Programs.** Giving children more time to learn in enriching after-school, weekend and summer school programs can be an effective tool in helping all students meet high academic standards and ending both social promotion and retention. The President's proposal will continue his administration's strong commitment to the 21st Century Community Learning Centers program which provides grants to public schools to offer additional learning opportunities for students and community members. In Chicago, which three years ago ended the practice of social promotion in a way that gives students who need it substantial extended learning time, citywide math and reading scores have gone up every year, with the largest gains among the most disadvantaged students.

**ENSURING TEACHER QUALITY.** According to the National Commission on Teaching

and America's Future, one of the most important factors in improving student achievement is the knowledge and skills teachers bring to the classroom. Yet every year, approximately 50,000 individuals teach on "emergency" certificates, which means they do not meet the standards the state has set for certification. In addition, numerous teachers teach subjects for which they lack adequate preparation, with fully one quarter of secondary school teachers lacking even a minor in their main teaching field. Students in schools with the highest concentrations of poverty --those who often need the most help from the best teachers --are most likely to be in classrooms with teachers who are not fully qualified: for example, in schools with the highest minority enrollment, students have a less than 50 percent chance of having a math or science teacher with a license and degree in the field.

**Strengthen State Teacher Certification.** The President's proposal will require states to adopt performance examinations for all new teachers, requiring them to demonstrate both subject-matter knowledge and teaching expertise. The proposal also will require states and school districts to phase out, over four years, the use of teachers with emergency certificates and the practice of assigning teachers to subjects for which they lack adequate preparation. States would have to ensure that within four years, at least 95% of their teachers are fully certified through regular or alternative routes, are in a program that leads to full certification within three years or are fully certified in another state and working toward meeting any State-specific requirements. To support these new teacher quality standards, the proposal will provide resources to help states strengthen teacher certification standards, test new teachers, provide training to current teachers, and offer incentives to recruit more highly qualified teachers.

**Training to Help Teachers Teach to High Standards.** The President's proposal would help schools and school districts give current teachers the tools and training they need to help students reach high standards by supporting states and local efforts to provide sustained and intensive training to teachers, mentor new teachers during their first three years in the classroom, help teachers and principals align instruction with State academic standards and ensure that all teachers are proficient in content knowledge and teaching skills. This proposal would also help teachers, particularly in high-poverty districts, use technology to teach students to challenging State standards, for instance by using distance learning to get challenging subject matter into all classrooms.

**Expand Recruitment and Retention Efforts.** To help meet the need for 2.2 million new teachers over the next decade, the President's proposal would support state and local efforts to recruit and retain high-quality teachers in high-need areas, including a national job bank and effort to increase portability of teaching licenses and pensions. His proposal would also preserve and build on the successful Troops to Teachers program, which has helped 3,000 retiring military personnel become teachers in public schools since 1994. This expanded initiative - Transition to Teaching - would provide scholarships and other support to help retiring military and other non-military mid-career professionals to become teachers, particularly in high-poverty schools and in high-need subject areas like math, science, or special education.

*Certification for Teachers in High-Poverty Schools.* In order to help ensure that students in the most need are being taught by qualified teachers, the President's proposal would require all new teachers in programs supported with Title I funds to be fully certified in the subject that they teach. And, within two years, teacher aides in Title I schools with less than two years of college would be limited to non-instructional duties, while those with two years or more of college could provide instructional support and tutoring only under the supervision of a certified teacher.

**SAFE, DISCIPLINED AND DRUG-FREE LEARNING ENVIRONMENTS.** President Clinton has challenged states, communities, and schools to take a number of steps to restore order and safety, such as adopting school uniforms, enforcing truancy laws, and imposing curfews. This proposal would take additional steps to help ensure that each school is a safe, healthy, disciplined, and drug-free learning environment that allows teachers to teach and students to learn.

**Adopt and enforce, clear and fair discipline policies.** In many schools, the breakdown of classroom discipline remains one of the biggest obstacles to learning and one of the greatest concerns for teachers, students, and parents alike. The President's proposal will require states and school districts to adopt fair and consistently-implemented discipline policies that are developed with the participation of the school community. In the case of students who are suspended or expelled from school, schools must provide appropriate supervision, counseling, and educational services. To better inform parents, schools will be required to provide information about school violence and drug use, as well as the number of guns brought to school, in the annual report cards provided to parents.

**Counseling for Students Bringing Guns to School.** Under current law, schools are generally required to expel any student who brings a gun or explosive device to school, as well as to report that student to local law enforcement officials and juvenile justice authorities. During the 1996-97 school year, this national policy of "zero tolerance" for guns resulted in more than 6,000 students being expelled from school. The President's new proposal requires an assessment of any student who brings a firearm to school to determine if the student poses an imminent threat of harm to himself or others -- in which case the student must receive appropriate treatment before returning to school.

**Strengthened Safe, Disciplined and Drug-Free Schools Program.** The Safe and Drug-Free Schools and Communities Program represents the federal government's largest effort to prevent youth drug use and school violence. At the White House Conference on School Safety, the President proposed overhauling the program to provide more effective prevention programs for the reduction of drugs and violence in schools, more accountability for results, and better targeting to those schools that need the most assistance. Under the President's reauthorization proposal, school districts would be expected to develop comprehensive plans that, among other things, use proven anti-drug and violence prevention programs, collect and report relevant data, intervene with troubled youth, and establish security procedures for schools. This proposal would also support programs that educate students about the risks associated with guns; promote alternative schools and "second chance" programs for students who constantly disrupt classes; and expand character education programs that help instill common sense values in our children.

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**Emergency Response to Violence.** The President's reauthorization proposal also contains his Project SERV initiative --developed with the help of the communities impacted by recent schools shootings --to provide immediate assistance as soon as a school-related violent or traumatic incident occurs, through: an Emergency Response Fund to help communities meet urgent and unplanned needs, such as additional security personnel, emergency mental health crisis counseling, and longer-term counseling to students, faculty, and their families; and Crisis response experts identified and funded by the Departments of Education, Justice, Health and Human Services, and FEMA, who can help local officials identify and respond to community needs. Officials from those federal agencies worked together to help schools impacted by last year's shootings. These agencies will continue to work together as part of Project SERV, and improve ongoing federal crisis response efforts.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAY-1999 17:22:06.00

SUBJECT: Statement -- Take One

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

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

TEXT:

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6660B5EF386356EE31A1001CC2A2D5833FC2820CCFE1DDE1D5BC82364BD40780E3FCECD16ADA65

### **Statement of the President**

I want to commend the Senate for reversing its position of last year and voting overwhelmingly today to require that child safety locks be provided with every gun sold. This was a common sense yet courageous vote by the Senate that is sure to prevent tragic shootings and gun-related accidents in the future. I also want to thank Speaker Hastert for coming out in support of our proposals to close the gun show loophole and to raise the age of handgun ownership to 21 years of age. The Senate should likewise put progress over politics and give their strong backing to these reasonable measures to keep guns out of the hands of kids and criminals.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAY-1999 17:42:06.00

SUBJECT: Youth Violence

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CC: Ann C. Hertelendy ( CN=Ann C. Hertelendy/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

CC: Aprill N. Springfield ( CN=Aprill N. Springfield/OU=WHO/O=EOP@EOP [ WHO ] )  
READ:UNKNOWN

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

TEXT:

You are invited to a Youth Violence Followup Meeting at 1:00 p.m. tomorrow, May 19, in Bruce Reed's office, 2 Floor/West Wing.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAY-1999 17:50:31.00

SUBJECT: ESEA press paper

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Elena -- One other request -- could we add and "Vice President Gore" after "President Clinton" at the top of this document. We normally do this, but didn't today. thanks a lot!!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAY-1999 18:55:46.00

SUBJECT: ftc

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Tony P said he didn't think our FTC study would cause a big fuss, but he suggested we give Valenti a heads up before we announce it, which seems like a good idea. Remind me to do that.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAY-1999 19:03:32.00

SUBJECT: URGENT DEADLINE -- Ag Committee Letter for House Full Committee Mark-up

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

READ:UNKNOWN

TO: Steve Ricchetti ( CN=Steve Ricchetti/OU=WHO/O=EOP@EOP [ WHO ] )

READ:UNKNOWN

TO: George T. Frampton ( CN=George T. Frampton/OU=CEQ/O=EOP@EOP [ CEQ ] )

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Miles M. Lackey ( CN=Miles M. Lackey/OU=NSC/O=EOP@EOP [ NSC ] )

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CC: Mark J. Tavlarides ( CN=Mark J. Tavlarides/OU=NSC/O=EOP@EOP [ NSC ] )  
READ:UNKNOWN

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

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

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

READ:UNKNOWN

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

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

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

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

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

TEXT:

Attached for clearance is a draft letter for the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, FY 2000, House Full Committee mark-up scheduled for Wed., May 19 at 9:30AM. We aim to have this letter cleared and signed tonight. Please provide to me your sign-off as soon as possible. Thank you.

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

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

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D27]ARMS20422015R.136 to ASCII,  
The following is a HEX DUMP:

FF5750438C0E0000010A02010000000205000000DE5200000002000003539B0F3A6E8929D100DE8  
0B6DF4D8F6E57617F814BC54FD81AED71A136179D5DEC0889DC13987269162F7A2EC294CEE3BDA  
73FF4E5C90252277989543C9F90A818917B0EA3113A578C98B244ADA51A5D40BD5AF979EFD2962

Automated Records Management System  
Hex-Dump Conversion

The Honorable C. W. Bill Young  
Chairman  
Committee on Appropriations  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Mr. Chairman:

The purpose of this letter is to provide the Administration's views on the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, FY 2000, as reported by the House Subcommittee. As the Committee develops its version of the bill, your consideration of the Administration's views would be appreciated.

The allocation of discretionary resources available to the Committee under the Congressional Budget Resolution is simply inadequate to make the necessary investments that our citizens need and expect. The President's FY 2000 Budget proposes levels of discretionary spending that meets such needs while conforming to the Bipartisan Budget Agreement by making savings proposals in mandatory and other programs available to help finance this spending. The Administration urges the Congress to consider such proposals.

The Administration appreciates efforts by the Subcommittee to accommodate certain of the President's priorities within the 302(b) allocation. However, the Subcommittee bill is nearly \$600 million, or four percent, below the program level requested by the President. The FY 2000 Budget would increase spending within the discretionary caps for agriculture and other programs in the bill by 3.6 percent over comparable FY 1999 spending. We urge the Committee to consider the over \$600 million in user fees proposed in the budget in order to fund high-priority programs. Given the current period of financial stress in the agricultural sector, now is not the time to reduce assistance to farmers, ranchers, and rural residents.

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

Common Computing Environment

The Administration is extremely concerned by the elimination of funds for the Common Computing Environment. The Congress has criticized the Department of Agriculture (USDA) this year for delays in providing the crop loss assistance funds to farmers that were provided in P. L. 105-277, the FY 1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act. Yet this bill would not provide the funds needed to address the very problems that have contributed to the delay. At a time when the farm community is under financial stress and the

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demand for farm credit and other programs is soaring, the need for timely and efficient service to producers and rural residents has never been greater. Without the proposed \$74 million in funding, progress to modernize the technology in USDA's local field offices, create "one-stop shopping" for rural customers, and promptly deliver the programs that Congress enacts with available staffing levels will not be possible.

Conservation

The Subcommittee bill would cut spending on key USDA conservation programs by over \$200 million from the President's request. The \$26 million reduction in the Environmental Quality Incentives Program (EQIP) would mean 13,000 farmers and ranchers not receiving needed financial and technical assistance to stop soil erosion, improve waste treatment in animal feeding operations, and implement other conservation measures whose value is reflected in the significant backlog of applications for this program. For these reasons, the Administration requested a \$100 million increase in the EQIP program.

Lands Legacy Initiative

The Subcommittee has failed to fund the \$78 million request for the Farmland Protection Program, which is part of the Administration's Lands Legacy Initiative. These funds are needed to help keep farmers on their land by permanently protecting 130,000 acres of prime farmland from development through easement purchases. We urge the Committee to provide the \$50 million in discretionary funds requested for the program and to redirect savings from the Conservation Farm Option to this program, as well as to the Wildlife Habitat Incentives Program to assist over 3,000 farmers in protecting and restoring wildlife habitat.

Environment

Several valuable environmental programs would be severely underfunded by the Subcommittee bill, and we urge the Committee to restore funding for them. For example, the bill would limit enrollment in the Wetlands Reserve Program to 120,000 acres, 80,000 acres less than assumed in the budget. This limitation would mean that over 400 farmers would not receive assistance they desire to restore and protect high-value wetlands on their property. In addition the Subcommittee has not provided \$12 million requested within the Conservation Operations program, which would be used to assess soil management's effects on carbon sequestration, and \$5 million for the Community/Federal Information Partnership, which would help communities make use of geospatial data to make more informed land use decisions and promote smart growth.

Outreach For Socially Disadvantaged Farmers

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The Subcommittee bill does not provide the requested \$7 million increase for the Outreach for Socially Disadvantaged Farmers program. This program has proven effective in mitigating the decline in the number of minority farmers by increasing their participation in agricultural programs, assisting them in marketing and production, and improving the profitability of their farming operations. USDA loan default rates have also improved in areas where this program operates. The requested increase is needed to expand this program beyond the limited areas it now operates, to further these farmers' equal access and opportunity for success.

Rural Development

The Administration appreciates the increases provided for various rural development programs, such as for single-family housing loans and water and wastewater loans and grants. However, several priority programs have been underfunded, which would have a severe impact on low-income rural residents and on progress in diversifying the rural economy. For example, the \$57 million reduction in the Rental Assistance Program would mean that over 1,300 expiring rental assistance contracts would not be renewed. This would leave over 1,300 very-low and low-income residents, most of whom are elderly women or single mothers, to face a very difficult search for affordable shelter. In addition, no funds are provided for rental assistance in newly-constructed farm labor and other rental housing, which would dramatically diminish the ability of newly constructed units to target those most in need of housing.

The Subcommittee bill would also slash guaranteed loans under the Business and Industry program from the enacted and requested guarantee level of \$1 billion to \$482 million, resulting in 20,000 fewer jobs created or saved in rural America through the program. In addition, the Subcommittee has blocked spending from the Fund for Rural America, which would cause further reductions in high-priority rural development and research projects.

Agricultural Research

The Administration objects to the deep cuts in competitive research grants and the large number of earmarked, lower-priority research projects funded by the bill. The Subcommittee bill would reduce competitive grants funded through the National Research Initiative by \$14 million from the FY 1999 enacted level and by \$95 million from the request. When coupled with the Subcommittee's elimination of the \$120 million in mandatory research funding and other competitive grant funding, the bill would reduce competitive research grants by over \$275 million, or 66 percent, from the requested level. These programs fund much of the most important research needed to keep American agriculture competitive into the 21<sup>st</sup> century and to improve the quality of life for all Americans, such as research on food safety, new uses for agricultural products, developing new markets for agricultural trade, and improving the environment through efforts such as finding alternatives to methyl bromide. We urge the Committee to increase funds for competitive research and to reduce earmarks for lower-priority programs.

Women, Infants, and Children Program

The Subcommittee bill would provide \$4 billion for the Special Supplemental Nutrition Program for Women, Infants, and Children (WIC), \$100 million below the President's request of \$4.1 billion. The Subcommittee's mark would support a participation level of 7.3 million women, infants and children. Based on FY 1999 year-end projections, this would mean cutting between 100,000 and 200,000 needy participants off the program. The President's FY 2000 Budget would maintain participation at the 7.5 million level, fulfilling the bipartisan commitment to fully fund WIC. The Administration strongly urges the Committee to fund WIC at the President's requested level.

#### FNS Research/Other

The Administration strongly objects to the provision of the Subcommittee bill that would provide funding for research on nutrition programs only within the Economic Research Service. To address program integrity and performance issues properly, it is crucial that research on nutrition programs also occur in the context of the program's administration. We urge the Committee to provide funding for these activities within the Food and Nutrition Service.

The Administration also objects to the Subcommittee not including the President's request to provide funding for the school breakfast demonstration programs and for Nutrition Education and Training (NET).

#### Food Safety Initiative

The Administration appreciates the Subcommittee's support for the President's Food Safety Initiative through increases provided in the Food Safety and Inspection Service and the Food and Drug Administration (FDA). However we are concerned that the Subcommittee has provided only \$36 million of the \$62 million increase over FY 1999 levels requested in this bill for the Initiative. American consumers enjoy the world's safest food supply, but still too many Americans get sick, and in some cases die, from preventable food-borne diseases. The President's requested increase would provide critical resources to expand USDA's food safety research and risk assessment capabilities. We urge the Committee to provide full funding at the requested levels for these activities.

#### Food and Drug Administration

While the Administration is very pleased that the Subcommittee has provided the largest single-year budget increase in the history of the FDA, we are disappointed that the Subcommittee has not funded the full amount for tobacco programs and the seafood inspection program transfer.

The Administration is committed to Youth Tobacco Prevention activities and urges the Committee to provide the requested increase of \$34 million for these programs. Every day, three thousand young people become regular smokers. Reducing young people's tobacco use would improve public health for generations to come.

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The Administration urges the Committee to approve the proposal to consolidate Federal seafood inspection activities. The Committee is encouraged to fully fund the requested \$3 million for training, education, and other costs associated with the program's transfer.

We urge the Committee to approve the collection of \$17 million in additive user fees targeted to support the FDA's Pre-market Application Review efforts for new medical devices, food and color additives, and food contact substances. The proposed user fees would allow the FDA to work with its regulated industries to reduce total product development time and meet statutory review requirements. Delays in getting new products to the market can postpone new technologies that have the potential to save lives and save billions of dollars in health care costs. The Administration would like to work with Congress to make this proposal a reality.

Kyoto Protocol

The Subcommittee has included a general provision that would prevent funds provided in the bill from being used to implement the Kyoto Protocol that was adopted in December 1997. As the Administration has no intention of implementing the protocol prior to ratification, we believe this language is necessary. In addition, the language is flawed because it would prevent implementation even if the protocol was ratified by the Senate.

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

Sincerely,

Jacob J. Lew  
Director

Identical Letter Sent to The Honorable C. W. Young,  
The Honorable David R. Obey, The Honorable Joseph Skeen,

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAY-1999 19:23:12.00

SUBJECT: Re: Hastert Getting Tough on Gun Control (with POTUS)

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

We shouldn't tell the press, but you should know that the President placed a call to Hastert to commend him -- but Hastert wasn't there so they haven't spoken yet.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAY-1999 19:52:54.00

SUBJECT: Collins announcement cancelled for tomorrow

TO: Matthew P. Schaefer ( CN=Matthew P. Schaefer/OU=NSC/O=EOP @ EOP [ NSC ] )  
READ:UNKNOWN.

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

TO: Clifford J. Gabriel ( CN=Clifford J. Gabriel/OU=OSTP/O=EOP @ EOP [ OSTP ] )  
READ:UNKNOWN

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

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

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

TEXT:

They have cancelled the announcement of the food import bill for tomorrow. The official reason is too many votes. It sounds like the members didn't know exactly what is in the bill and now want to litigate some of the provisions.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAY-1999 20:21:59.00

SUBJECT: INS Naturalization Roll-out Plan and Documents

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

READ:UNKNOWN

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

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Just a reminder - please send me your comments on the INS naturalization roll-out documents Wednesday morning, 5/19.

As I mentioned in my previous e-mail, INS plans to brief the Hispanic Caucus on the INS naturalization plan on Friday, 5/21 and has tentatively scheduled a briefing unless of course, there are major problems with the INS naturalization plan.

Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAY-1999 11:06:11.00

SUBJECT: EPIC update

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

The Equity in Prescription Insurance Coverage is supposed to be dropped in this Thursday. Snowe has a press conference scheduled for 11 that day. She's invited the other sponsors but they aren't confirmed.

We may see the reversal this week of two victories won last week -- DOD authorization subcommittee approved Sanchez amendment to allow military women to pay for their own abortions in U.S. military hospitals; Treasury-Postal approps. subcommittee reported out bill with Lowey language intact in the mark. DOD Committee likely to overturn Sanchez win; Northup may do amendment in Treasury-Postal to strike the Lowey language.

Given these new developments, we may want to seek POTUS endorsement of EPIC this week so that we can combine it in a story about our positive message vs. their extremism. Although, Chris and I have discussed the benefit of holding off so that we don't have to publicly get into the conscience clause issue yet:

FYI -- I'll be gone to a conference in Toronto from 3 pm Tuesday returning Thursday am.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ann C. Hertelendy ( CN=Ann C. Hertelendy/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:17-MAY-1999 12:01:49.00

SUBJECT: Message Mtg today at 4pm

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

TO: Dan K. Rosenthal ( CN=Dan K. Rosenthal/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: Julianne B. Corbett ( CN=Julianne B. Corbett/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

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

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

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

TO: Wendy E. Gray ( CN=Wendy E. Gray/OU=NSC/O=EOP @ EOP [ NSC ] )  
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

TO: Tomasz P. Malinowski ( CN=Tomasz P. Malinowski/OU=NSC/O=EOP @ EOP [ NSC ] )  
READ:UNKNOWN

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

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

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

READ:UNKNOWN

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

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

TO: Mary E. Cahill ( CN=Mary E. Cahill/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: Laura A. Graham ( CN=Laura A. Graham/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

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

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

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

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

CC: Mckenzie K. Davis ( CN=Mckenzie K. Davis/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

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

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

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

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

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

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

READ:UNKNOWN

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

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

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

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

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

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

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

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

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

CC: Julie B. Goldberg ( CN=Julie B. Goldberg/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

CC: Cecily C. Williams ( CN=Cecily C. Williams/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

CC: Alejandro G. Cabrera ( CN=Alejandro G. Cabrera/O=OVP @ OVP [ UNKNOWN ] )  
READ:UNKNOWN

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

CC: Cynthia M. Jasso-Rotunno ( CN=Cynthia M. Jasso-Rotunno/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

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

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

CC: Jocelyn A. Bucaro ( CN=Jocelyn A. Bucaro/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

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

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

TEXT:

Loretta will be holding a message mtg today at 4pm in OEOB 100:

4:00-4:30pm: Message opportunities while the President is out of town  
(week of 5/23)

4:30-5:00pm: Empowerment Zones and City Year Event

Please call/e-mail with questions or concerns. Thanks!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAY-1999 12:49:42.00

SUBJECT: Supreme Court ruling on Anderson v. Roe

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

The Supreme Court ruled 7-2 against California. Below is the AP story; also attached is the Q&A we did last fall on our position.

May 17, 1999; Monday 11:15 Eastern Time

SECTION: Washington - general news

LENGTH: 963 words

HEADLINE: Court Rules on Welfare Benefits

BYLINE: LAURIE ASSEO

AP-Court-Welfare ,1019

DATELINE: WASHINGTON

BODY:

The Supreme Court today ruled states cannot pay lower welfare benefits to new residents than to longtime residents.

The justices' 7-2 decision said California's limit on benefits for new residents violates the constitutional right to travel.

'Citizens of the United States, whether rich or poor, have the right to choose to be citizens of the state wherein they reside,' Justice John Paul Stevens wrote for the court. 'The states, however, do not have any right to select their citizens.'

Stevens said, 'The state's legitimate interest in saving money provides no justification for its decision to discriminate among equally eligible

citizens.''

In other action today, the court:'

Agreed to judge the validity of a federal law that closes state motor vehicle records to the public. The justices will use a dispute from South Carolina to decide, sometime in 2000, whether Congress unlawfully usurped state governments' authority when it enacted the Driver's Privacy Protection Act of 1994.

Made it harder for federal judges to strike down election districts as products of unlawful racial gerrymandering. The unanimous ruling in a North Carolina case could have great influence on redistricting disputes nationwide after the 2000 census.

Left intact a million-dollar libel award against the tabloid newspaper Globef or repeating a book's claim that a California man, not Sirhan Sirhan, killed Robert F. Kennedy. The justices, without comment, let stand a ruling by California's highest court that the news media can be liable for repeating someone else's libelous statement about a private figure.

Said police do not need a warrant to seize someone's car from a public place under laws requiring forfeiture of property linked to crime. The 7-2 ruling reinstated a Florida man's drug conviction based on the crack cocaine police found in his car after seizing it without a warrant. Police said the man's car was subject to forfeiture because it had been used to deliver drugs several months earlier.

California's welfare policy would have given people who lived in the state for less than a year only the amount of welfare they would have received in their previous home state. Fourteen other states have similar laws.

A federal welfare overhaul enacted by Congress in 1996 specifically allowed states to temporarily provide lower benefits for new residents. But the justices said today Congress cannot authorize states to enact policies that violate the Constitution.

California lawmakers enacted the lower benefit to save money and eliminate an incentive people might have to move in-state to get a higher welfare check.

For example, a family of four in California ordinarily would get \$673 a month, while a family who moved into the state from Mississippi within the past

year would get only \$144.

Welfare recipients challenged the law, saying the limit on benefits coupled with California's high cost of living could deprive them of the basic necessities of life. Lower courts put the law on hold, saying the state could not treat new and longtime residents differently.

In 1969, the Supreme Court invoked the constitutional right to travel as it struck down state laws that required one year of residency in that state to receive any welfare benefits at all.

During arguments last January, California's lawyers told the justices that reducing benefits for a year would not violate new residents' right to travel. New residents would not be much worse off because they still would be eligible for other welfare programs such as job training and child care, the state's lawyers said.

Those who challenged the California law said they moved into the state to pursue employment, not welfare benefits. One woman who moved from Oklahoma said she would not be able to afford housing if her benefits were limited to Oklahoma's level of \$307 for a family of three, instead of \$565 for longer-term California residents.

A federal judge put the welfare limit on hold. The 9th U.S. Circuit Court of Appeals agreed, deciding California could not justify limiting new residents' welfare benefits by saying they would have received the same amount in their previous state.

The 1996 federal welfare law allows the states to enact dramatically different public-assistance policies. Congress decided to let states pay lower benefits to new residents for fear the new system otherwise might lead states with higher benefits to become magnets for welfare recipients.

Congress also worried that other states might "race to the bottom" by cutting benefits to push people away. So far there is little evidence that states with higher benefits have attracted large numbers of welfare migrants.

Stevens wrote that while it may be reasonable to assume some people might move to a state to receive higher welfare benefits, "the empirical evidence ... indicates that the number of such persons is quite small surely not large enough

to justify a burden on those who had no such motive.''

Stevens' opinion was joined by Justices Sandra Day O'Connor, Antonin Scalia, Anthony M. Kennedy, David H. Souter, Ruth Bader Ginsburg and Stephen G. Breyer.

Dissenting were Chief Justice William H. Rehnquist and Justice Clarence Thomas.

Writing for the two, Rehnquist called the California law a ''reasonable measure falling under the head of a 'good-faith residency requirement.'''

Other states with different welfare benefits for newcomers include Florida, Georgia, Illinois, Maryland, Minnesota, New Hampshire, New Jersey, New York, North Dakota, Pennsylvania, Rhode Island, Vermont, Washington and Wisconsin. Several of those laws have been challenged in court and have been barred from taking effect.

The case is Saenz vs. Roe, 98-97.

LANGUAGE: ENGLISH

----- Forwarded by Cynthia A. Rice/OPD/EOP on 05/17/99  
12:43 PM -----

Andrea Kane  
05/17/99 12:27:53 PM  
Record Type: Record

To: Cynthia A. Rice/OPD/EOP  
cc:  
Subject: 11/20 Q&A on Anderson v. Roe

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

TEXT:  
Unable to convert ARMS\_EXT:[ATTACH.D20]ARMS214944943.136 to ASCII,  
The following is a HEX DUMP:

FF57504306050000010A02010000000205000000ED11000000020000AED434FF9595D5E3288156  
53F0A95A848B694FC332B4FD9F11572CF7C49CA69949143A869E3E9CE81668C7BEF65AD16C4972

*Q&A on Anderson v. Roe*  
*November 21, 1998*

*Q: What is the Administration's position regarding California's policy of paying new residents less in welfare benefits than current residents?*

A: The Administration's position is that the federal welfare reform statute (PRWORA) is constitutional, and that its residency provision, like other sections of the statute, simply gives states additional flexibility to establish welfare policies that best meet their needs. The brief argues that the purpose of the provision is to ensure that the new federal law would not create new incentives for interstate migration and would not encourage states to lower benefits. The brief then argues that the federal district court erred in not examining whether California's statute was narrowly tailored to serve these purposes that underlie the federal law, and that it is doubtful whether the California statute can meet that standard. The brief urged the Supreme Court to remand the case to the federal district court to explore that issue.

*Q: Why did the United States file a brief in the matter given that the U.S. is not a party to the suit and the 1996 federal welfare reform statute is not under review?*

A: The United States filed a friend of the court brief because a clear question was presented about what, if any, effect the federal welfare reform act had on states' adoption of different benefit levels for new state residents. The U.S. also filed a brief because the case implicates important constitutional precedent concerning the right to travel.

*Q: Does the evidence show that people move from state to state seeking higher welfare benefits?*

A: There is mixed evidence on this point -- there are no definitive studies. Certainly, Congress could reasonably have determined that a provision of this kind would prevent welfare recipients from moving in search of higher benefits and states from lowering benefits. So far, the evidence indicates that states have not acted in this way and that in fact states are spending more per person than they were under AFDC.

*Q: How many states currently provide a different benefit to new residents?*

A: Thirteen states provide differential benefits to new residents (California, Florida, Georgia, Illinois, Maryland, Minnesota, New Jersey, New York, North Dakota, Pennsylvania, Rhode Island, Washington, and Wisconsin).

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAY-1999 12:58:58.00

SUBJECT: DPC Team Leaders Meeting

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

CC: Teresa M. Jones ( CN=Teresa M. Jones/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

CC: Eugenia Chough ( CN=Eugenia Chough/OU=OPD/O=EOP@EOP [ OPD ] )

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

The DPC Team Leaders Meeting for tomorrow, May 18, is rescheduled for 10:30 a.m.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAY-1999 13:04:27.00

SUBJECT: Reno mtg with Rogers

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

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

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

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

TEXT:

The weekly cabinet report indicated that reno is meeting with hal rogers on wed 5/19--do you think they'll be discussing restructuring?? I know we'll be getting briefed by ins on fri, but I thought Janet and Irene might want to touch base with doj/ins and be sure we know what if anything is going to be said on the subject. Keep me posted

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Eugenia Chough ( CN=Eugenia Chough/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:17-MAY-1999 13:37:29.00

SUBJECT: Welfare reform accomplishments document

TO: Lee Ann Brackett ( CN=Lee Ann Brackett/O=OVP @ OVP [ UNKNOWN ] )  
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

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

TEXT:

Attached please find an updated version of the Administration's accomplishments on welfare reform document. Unfortunately, due to backlogs, the version on our WH web site has not been updated in awhile,



5/12/99

## CLINTON-GORE ACCOMPLISHMENTS REFORMING WELFARE

*On August 22, 1996, President Clinton signed the Personal Responsibility and Work Opportunity Reconciliation Act, fulfilling his longtime commitment to 'end welfare as we know it.' As the President said upon signing, "... this legislation provides an historic opportunity to end welfare as we know it and transform our broken welfare system by promoting the fundamental values of work, responsibility, and family."*

### TRANSFORMING THE BROKEN WELFARE SYSTEM

- **Overhauling the Welfare System with the Personal Responsibility Act:** In 1996, the President signed a bipartisan welfare plan that is dramatically changing the nation's welfare system into one that requires work in exchange for time-limited assistance. The law contains strong work requirements, performance bonuses to reward states for moving welfare recipients into jobs and reducing illegitimacy, state maintenance of effort requirements, comprehensive child support enforcement, and supports for families moving from welfare to work -- including increased funding for child care. State strategies are making a real difference in the success of welfare reform, specifically in job placement, child care and transportation. In April 1999, the President unveiled landmark new welfare regulations that will promote work and help those who have left the rolls to succeed in the workforce and stay off welfare.
- **Law Builds on the Administration's Welfare Reform Strategy:** Even before the Personal Responsibility Act became law, many states were well on their way to changing their welfare programs to jobs programs. By granting federal waivers, the Clinton Administration allowed 43 states -- more than all previous Administrations combined -- to require work, time-limit assistance, make work pay, improve child support enforcement, or encourage parental responsibility. The vast majority of states have chosen to build on their welfare demonstration projects approved by the Administration.
- **Welfare Rolls Decline as More Recipients go to Work:** In April 1999, the President released state-by-state data (from December 1998) showing that welfare caseloads are at their lowest level in 30 years and that the welfare rolls have fallen by nearly half since he took office. Since January 1993, 29 states have had caseload declines of more than half and nationwide the rolls have fallen by 46%, from 14.1 million to 7.6 million. This historic decline occurred in response to the Administration's grants of federal waivers to 43 states, the provisions of the new welfare reform law, and the strong economy. Information released by the Department of Health and Human Services also shows that the percentage of welfare recipients working has tripled since 1992, that an estimated 1.5 million people who were on welfare in 1997 were working in 1998, and that all states met the first overall work participation rates required under the welfare reform law.

## MOVING PEOPLE FROM WELFARE TO WORK

- **Mobilizing the Business Community:** At the President's urging, the Welfare-to-Work Partnership was launched in May 1997 to lead the national business effort to hire people from the welfare rolls. The Partnership began with 105 participating businesses, and in his 1999 State of the Union address, the President announced that the Partnership has grown to more than 10,000 businesses. Since 1997, these businesses have hired over 410,000 welfare recipients, surpassing the challenge the President set in May of 1998. The Partnership provides technical assistance and support to businesses around the country, including: its toll-free number 1-888-USA-JOB1, a web site, a quarterly newsletter, and a "Blueprint for Business" hiring manual. The Partnership also published "The Road to Retention," a report of companies that have found higher retention rates for former welfare recipients than for other new hires, and strategies they used to achieve this success.
- **Connecting Small Businesses with New Workers and Creating New Entrepreneurs:** The Small Business Administration is addressing the unique and vital role of small businesses who employ over one-half of the private workforce, by helping small businesses throughout the country connect with job training organizations and job-ready welfare recipients. In addition, SBA provides training and assistance to welfare recipients who wish to start their own businesses. SBA provides assistance to businesses through its 1-800-U-ASK-SBA number, as well through its network of small business development and women's business centers, one-stop capital shops, Senior Corps of Retired Executives (SCORE) chapters, district offices, and its website.
- **Mobilizing Civic, Religious and Non-profit Groups:** Vice President Gore created the Welfare-to-Work Coalition to Sustain Success, a coalition of national civic, service, and faith-based groups committed to helping former welfare recipients succeed in the workforce. Working in partnership with public agencies and employers, Coalition members provide mentoring, job training, child care, transportation, and other support to help these new workers with the transition to self sufficiency. Charter members of the Coalition include: Alpha Kappa Alpha, the Boys and Girls Clubs of America, the Baptist Joint Committee, Goodwill, Salvation Army, the United Way, Women's Missionary Union, the YMCA, the YWCA, and other civic and faith-based groups.
- **Doing Our Fair Share with the Federal Government's Hiring Initiative:** Under the Clinton/Gore Administration, the federal workforce is the smallest it has been in thirty years. Yet, this Administration also believes that the federal government, as the nation's largest employer, must lead by example. In March 1997, the President asked the Vice President to oversee the federal government's hiring initiative in which federal agencies committed to directly hire at least 10,000 welfare recipients in the next four years. In April 1999, the President announced that the federal government has hired 12,000 welfare recipients, meeting the goal nearly two years ahead of schedule. As a part of this effort, the White House pledged to hire six welfare recipients and has already exceeded this goal.
- **Funds to Help Move More People from Welfare to Work:** Because of the President's leadership, the 1997 Balanced Budget Act included \$3 billion for Welfare-to-Work grants to

help states and local communities move long-term welfare recipients, and certain non-custodial parents, into lasting, unsubsidized jobs. These funds can be used for job creation, job placement and job retention efforts, including wage subsidies to private employers and other critical post-employment support services. The Department of Labor provides oversight, but most of the dollars are placed through the Private Industry Councils, in the hands of the localities who are on the front lines of the welfare reform effort. In addition, 25% of the funds are awarded by the Department of Labor on a competitive basis to support innovative welfare-to-work projects. The President announced the first round of 49 competitive grants in May, and the Vice President announced the second round of 75 competitive grants in November 1998. In January 1999, the Department of Labor announced the availability of \$240 million in competitive grants for FY 1999. These funds will support innovative local welfare-to-work strategies for noncustodial parents, individuals with limited English proficiency, disabilities, substance abuse problems, or a history of domestic violence.

The President's FY 2000 Budget requests \$1 billion to extend the Welfare-to-Work program to help 200,000 long-term welfare recipients and noncustodial parents in high-poverty areas move into lasting unsubsidized employment. The initiative would provide at least \$150 million to ensure that every state helps fathers fulfill their responsibilities by working, paying child support, and playing a responsible part in their children's lives. Under this proposal, states and communities would use a minimum of 20% of their formula funds to provide job placement and job retention assistance to low-income fathers who sign personal responsibility contracts committing them to work and pay child support. This effort would further increase child support collections, which have risen 80% since the President took office, from \$8 billion in 1992 to \$14.4 billion in 1998. Remaining funds will go toward assisting long-term welfare recipients with the greatest barriers to employment to move into lasting jobs. The reauthorized program also would double the Welfare-to-Work funding available for tribes.

- **Tax Credits for Employers:** The Welfare-to-Work Tax Credit, enacted in the 1997 Balanced Budget Act, provides a credit equal to 35% of the first \$10,000 in wages in the first year of employment, and 50% of the first \$10,000 in wages in the second year, to encourage the hiring and retention of long term welfare recipients. This credit complements the Work Opportunity Tax Credit, which provides a credit of up to \$2,400 for the first year of wages for eight groups of job seekers. The Omnibus Budget Act of 1998 included an extension through June 30, 1999 and the President's FY 2000 Budget proposes to extend both credits for an additional year.
- **Welfare-to-Work Housing Vouchers:** In 1999, the President proposed and Congress approved \$283 million for 50,000 new housing vouchers for welfare recipients who need housing assistance to get or keep a job. Families will use these welfare-to-work housing vouchers to move closer to a new job, to reduce a long commute, or to secure more stable housing that will eliminate emergencies which keep them from getting to work every day on time. Nearly all of these vouchers will be awarded to communities on a competitive basis, to communities that create cooperative efforts among their housing, welfare and employment agencies. The President's FY 2000 Budget provides \$430 million for 75,000 welfare-to-work housing vouchers, including \$144 million in new funds for 25,000 additional

vouchers.

- **Welfare-to-Work Transportation:** One of the biggest barriers facing people who move from welfare to work -- in cities and in rural areas -- is finding transportation to jobs, training programs and child care centers. Few welfare recipients own cars. Existing mass transit does not provide adequate links to many suburban jobs at all, or within a reasonable commute time. In addition, many jobs require evening or weekend hours that are poorly served by existing transit routes. To help those on welfare get to work, President Clinton proposed a \$100 million a year welfare-to-work transportation plan as part of his ISTEA reauthorization bill. The Transportation Equity Act for the 21st Century (TEA-21) authorized \$750 million over five years for the President's Job Access initiative and reverse commute grants. Of this amount, \$50 million is guaranteed funding in FY 1999, rising to \$150 million in 2003. The Omnibus Budget Act included \$75 million for this program in FY 1999, and in May, Vice President Gore awarded \$71 million of these funds to 179 communities in 42 states around the country. The President's Budget proposes to double funding for FY 2000, bringing the program to the authorized level of \$150 million. The Job Access competitive grants will assist states and localities in developing flexible transportation alternatives, such as van services, for welfare recipients and other low income workers.

### SUPPORTING WORKING FAMILIES

- **Expanding the Earned Income Tax Credit:** Expansions in the EITC included in the President's 1993 Economic Plan are making work pay for 15 million working families, including former welfare recipients. A study conducted by the Council of Economic Advisors reported that in 1997, the EITC lifted 4.3 million American out of poverty -- more than double the number in 1993. The findings also suggest that the increase in labor force participation among single mothers who received welfare is strongly linked to the EITC expansion.
- **Improving Access to Affordable and Quality Child Care:** Under the Clinton Administration, federal funding for child care has increased by 70%, helping parents pay for the care of about one million children. The 1996 welfare reform law increased child care funding by \$4 billion over six years to provide child care assistance to families moving from welfare to work.

The President's budget proposes to expand the Child Care and Development Block Grant to help working families struggling to meet the costs of child care. The President's proposal: (1) increases funding for child care subsidies by \$7.5 billion over five years, and these new funds, combined with funds provided in welfare reform, will enable the program to serve an additional 1.15 million children by FY 2004; (2) provides \$3 billion over five years to promote early learning; and (3) provides \$173 million to improve child care quality. Additional funds for subsidies are necessary because currently, only 1.25 million of the approximately 10 million families eligible for assistance under federal law receive help.

The President's proposal also includes \$5 billion over five years to expand the Child and

Dependent Care Tax Credit (CDCTC) to provide greater tax relief for nearly three million working families paying for child care and eliminate income tax liability for almost all families with incomes below 200% of poverty. Additionally, the proposal includes \$1.3 billion to enable parents who have children under one year old to take advantage of the CDCTC by allowing these 1.7 million families to claim assumed child care expenses of \$500. The President's plan also includes a new tax credit to businesses that offer child care services to their employees. The President has proposed spending \$600 million in FY 2000 to triple funding for the 21st Century Community Learning Center Program, which supports the creation and expansion of after-school and summer-school programs to help roughly 1.1 million children each year. Finally, the President's proposal includes a significant new investment in Head Start, our nation's premier early childhood development program, with an additional \$607 million in FY 2000 to reach 42,000 more children, enabling the program to serve 877,000 low income children.

- **Providing Health Care to Low-Income Working Families.** In passing welfare reform, the President insisted on maintaining the Medicaid entitlement; indeed, he vetoed two welfare bills that did not guarantee continued Medicaid coverage to all adults and children who were then eligible. Beyond preserving Medicaid eligibility, the Clinton Administration has accomplished the following to ensure that low-income families have access to health care.
  - ***Creation of the Children's Health Insurance Program.*** The President, with bipartisan support from the Congress, created the Children's Health Insurance Program (CHIP). The Balanced Budget Act of 1997 allocated \$24 billion dollars over the next five years to extend health care coverage to uninsured children through State-designed programs. States project that they will ensure 2.5 million children when their new CHIP programs are fully implemented.
  - ***Allowing States to Expand Medicaid to Cover Families.*** The welfare law allows states to expand Medicaid coverage under section 1931 to families who earn too much to be eligible for Medicaid but not enough to afford health insurance. These expansions allow states to present Medicaid as a freestanding health insurance program for low-income families -- an important step towards removing the stigma associated with the program and reaching families who do not have contact with the TANF system.
  - ***Providing Medicaid Coverage to Low-income Two-Parent Families Who Work.*** In August 1998, the President eliminated a vestige of the old welfare system by allowing all states to provide Medicaid coverage to working, two-parent families who meet State income eligibility requirements. Under the old regulations, adults in two-parent families who worked more than 100 hours per month could not receive Medicaid regardless of their income level. Because the same restrictions did not apply to single-parent families, these regulations created disincentives to marriage and full-time work. Prior to eliminating the rule entirely, the Administration allowed a number of states to waive this rule. The new regulation eliminates this requirement for all States, providing health coverage for more than 130,000 working families to help them stay employed and off welfare.
  - ***Transitional Medical Assistance (TMA).*** TMA provides time-limited Medicaid

coverage to low-income households whose earnings or child support would otherwise make them ineligible for welfare-related Medicaid under state income eligibility standards. The President's FY 2000 Budget would reduce burdensome reporting requirements, including TMA eligibility procedures in the current Medicaid eligibility redetermination process. The budget also exempts those states that have expanded Medicaid coverage to families with incomes up to 185% of the federal poverty level from burdensome TMA reporting requirements, providing states with additional incentives to provide critical health care services.

- ***Helping States Help Low-Income Families.*** In March 1999, the Administration released new guidance encouraging States to reach out to children and families who are no longer eligible for cash assistance but are still eligible for Medicaid or CHIP. It also establishes that states must provide Medicaid applications upon request and process them without delay. The guidance reiterates state responsibilities to establish and maintain Medicaid eligibility for families and children affected by welfare reform, and provides creative examples of the best way to liberalize eligibility.

- **Investing for the Future:** In 1992, the President proposed to establish Individual Development Accounts (IDAs) to empower low-income families to save for a first home, post-secondary education, or to start a new business. The 1996 welfare reform law authorized the use of welfare block grants to create IDAs. And last year, the President signed legislation creating a five-year demonstration program. Households that are either eligible for Temporary Assistance for Needy Families or qualify for the Earned Income Tax Credit and have a net worth below \$10,000 are eligible to participate in the demonstration. The FY 1999 budget includes \$10 million to launch this initiative, and the President has proposed to double the commitment to \$20 million in FY 2000.

## PROMOTING PERSONAL RESPONSIBILITY

- **Increasing Parental Responsibility and Enforcing Child Support:** Tougher measures under the Clinton Administration resulted in a record \$14.4 billion in child support collections in 1998, an increase of \$6.4 billion, or 80% since 1992. Not only are collections up, but the number of families that are actually receiving child support has also increased. In 1997, the number of child support cases with collections rose to 4.2 million, an increase of 48% from 2.8 million in 1992.
  - ***Improving the Collection System.*** A new collection system, proposed by the President in 1994 and enacted as part of the 1996 welfare reform law, has located over 1.2 million delinquent parents in its first nine months of operation. With approximately one-third of all child support cases involving parents living in different states, this National Directory of New Hires helps track parents across state lines.
  - ***Tougher Penalties.*** In June 1998, the President signed the Deadbeat Parents Punishment Act, a law based on his 1996 proposal for tougher penalties for parents who repeatedly fail to support children living in another state or who flee across state lines to avoid supporting them.
  - ***Increasing Paternity Establishments.*** Paternity establishment, often the crucial

first step in child support cases, has dramatically increased, due in large part to the in-hospital voluntary paternity establishment program begun in 1994 by the Clinton Administration. In 1997, the number of paternities established or acknowledged rose to a record 1.3 million, two and a half times the 1992 figure of 512,000.

- ***Increasing Collections.*** Finally, President Clinton has taken executive action, including: collections from federal payments such as income tax refunds and employee salaries, and steps to deny federal loans to delinquent parents. The federal government collected over \$1.1 billion in delinquent child support from federal income tax refunds for tax year 1997, a 70% increase since 1992.

- **Breaking the Cycle of Dependency -- Preventing Teen Pregnancy:** Significant components of the President's comprehensive effort to reduce teen pregnancy became law when the President signed the 1996 Personal Responsibility Act. The law requires unmarried minor parents to stay in school and live at home or in a supervised setting; encourages "second chance homes" to provide teen parents with the skills and support they need; and, provides \$50 million a year in new funding for state abstinence education activities. Since 1993, the Administration has supported innovative and promising teen pregnancy prevention strategies, including working with boys and young men on pregnancy prevention strategies. The National Campaign to Prevent Teen Pregnancy, a private nonprofit organization, was formed in response to the President's 1995 State of the Union. In 1997, the President announced the National Strategy to Prevent Teen Pregnancy. The first annual report on this Strategy reported that HHS-supported programs already reach at least 31% or 1,470 communities in the United States. In April 1999, the Vice President announced new data showing that we continue to make real progress in encouraging more young people to delay parenthood -- teen births have declined nationwide by 16% from 1991 to 1997, and have fallen in every state and across ethnic and racial groups. In addition, teen pregnancy rates are at their lowest level in 20 years.

## RESTORING FAIRNESS AND PROTECTING THE MOST VULNERABLE

The President made a commitment to fix several provisions in the welfare reform law that had nothing to do with moving people from welfare to work. In 1997, the President fought for and ultimately was successful in ensuring that the Balanced Budget Act protects the most vulnerable. In 1998, the President continued his proposals to reverse unfair cuts in benefits to legal immigrants. The Administration's FY 2000 budget would build on this progress by restoring important disability, health, and nutrition benefits to additional categories of legal immigrants, at a cost of \$1.3 billion over five years.

- **Disability and Health:** The Balanced Budget Act of 1997 and the Noncitizen Technical Amendment Act of 1998 invested \$11.5 billion to restore disability and health benefits to 380,000 legal immigrants who were in this country before welfare reform became law (August 22, 1996). The President's FY 2000 Budget would restore eligibility for SSI and Medicaid to legal immigrants who enter the country after that date if they have been in the United States for five years and become disabled after entering the United States. This proposal would cost approximately \$930 million and assist an estimated 54,000 legal immigrants by 2004, about half of whom would be elderly.
- **Nutritional Assistance:** The Agricultural Research Act of 1998 provided Food Stamps for 225,000 legal immigrant children, senior citizens, and people with disabilities who enter the United States by August 22, 1996. The President's FY 2000 Budget would extend this provision by allowing legal immigrants in the United States on August 22, 1996 who subsequently reach age 65 to be eligible for Food Stamps at cost of \$60 million, restoring benefits to about 20,000 elderly legal immigrants by 2004.
- **Health Care for Children and Pregnant Women:** Under current law, states have the option to provide health coverage to immigrant children and pregnant women who entered the country before August 22, 1996. The President's FY 2000 Budget gives states the option to extend Medicaid or CHIP coverage to low-income legal immigrant children and Medicaid to pregnant women who entered the country after August 22, 1996. The proposal would cost \$325 million and provide critical health insurance to approximately 55,000 children and 23,000 women by FY 2004. This proposal would reduce the number of high-risk pregnancies, ensure healthier children, and lower the cost of emergency Medicaid deliveries.
- **Helping People Who Want to Work but Can't Find a Job:** The Balanced Budget Act, as amended by the Agricultural Research Act, also restored \$1.3 billion in food stamp cuts. The welfare reform law restricts food stamps to 3 out of every 36 months for able-bodied childless adults, unless they were working. Acknowledging that finding a job often takes time, the BBA provided funds for work slots and food stamp benefits to help those who are willing to work but, through no fault of their own, have not yet found employment. In addition, the BBA allows states to exempt up to 15% of the food stamp recipients (70,000 individuals monthly) who would otherwise be denied benefits as a result of the "3 in 36" limit.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAY-1999 13:46:42.00

SUBJECT: FW: Young Women's Leadership School

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Think that it's worth noting that the girls school complaint is nearing 1000 days---what are we going to say if asked, what are our options?

----- Forwarded by Maria Echaveste/WHO/EOP on 05/17/99

01:45 PM -----

"Thornton, Leslie" <Leslie\_Thornton@ed.gov>

05/17/99 08:54:31 AM

Record Type: Record

To: Ann F. Lewis/WHO/EOP, "'ruff\_c@a1.eop.gov'" <ruff\_c@a1.eop.gov>, Maria Echaveste/WHO/EOP

cc:

Subject: FW: Young Women's Leadership School

FYI.

Leslie

> -----Original Message-----

> From: Bowers, Susan

> Sent: Thursday, May 13, 1999 11:12 AM

> To: Thornton, Leslie

> Cc: Murphey, Rodger; Winnick, Steve

> Subject: Young Women's Leadership School

>

> Hi Leslie,

>

> We forgot to flag this for this week's weekly. The Young Women's

> Leadership school complaint is turning 1000 days old next week. We think

> that the complainants may go to the press on this anniversary. They know

> that ED is in consultation with DOJ, thus, the reason for delay. But,

> they're not happy.

>  
> We wanted to give you a heads up. If you need anything further, please  
> let me know.  
>  
> Sue

- att1.unk

# **Clinton Presidential Records Automated Records Management System [EMAIL]**

This is not a presidential record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

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**Hex Dump file is not in a recognizable format, has been incorrectly decoded or is damaged.**

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**File Name:** p\_i4955339\_who\_html\_1.tnf

**Attachment Number:** [ATTACH.D45]ARMS20435594J.136

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAY-1999 15:29:58.00

SUBJECT: Re: Court Rules on Welfare Benefits

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

READ:UNKNOWN

TEXT:

So we wanted to let California have two separate levels of welfare benefits?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: David R. Goodfriend ( CN=David R. Goodfriend/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:17-MAY-1999 15:33:14.00

SUBJECT:

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

READ:UNKNOWN

TEXT:

we still don't have your weekly rept; will we get it? goodfriend, 6-2702

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAY-1999 15:57:58.00

SUBJECT: NACARA and Naturalization Roll-out documents

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

CC: Theodore Wartell ( CN=Theodore Wartell/OU=OMB/O=EOP @ EOP [ OMB ] )

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

This morning you should have received a note from me with the NACARA and INS Naturalization Plan roll-out documents. If you have not received this documents, please let me know.

NACARA Reg - if possible, please send me your comments on the NACARA roll-out documents by Tuesday, 5/18 morning. INS is planning a roll-out on 5/20.

Naturalization Documents - if possible, please send me your comments on the naturalization documents by Wednesday, 5/19 morning. INS is planning a roll-out for Friday, 5/21.

Let me know if you have any comments or questions. Thanks.

Please let me know if you have any questions. Thanks.

Irene  
phone 6-6558  
fax 6-7028 or 6-5581

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Shirley S. Sagawa ( CN=Shirley S. Sagawa/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:17-MAY-1999 15:59:03.00

SUBJECT: AmeriCorps conference call

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

READ:UNKNOWN

TO: carolyn t. wu ( CN=carolyn t. wu/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: thomas l. freedman ( CN=thomas l. freedman/OU=opd/O=eop@eop [ OPD ] )

READ:UNKNOWN

TO: tanya e. martin ( CN=tanya e. martin/OU=opd/O=eop@eop [ OPD ] )

READ:UNKNOWN

TO: bruce n. reed ( CN=bruce n. reed/OU=opd/O=eop@eop [ OPD ] )

READ:UNKNOWN

TO: ann f. lewis ( CN=ann f. lewis/OU=who/O=eop@eop [ WHO ] )

READ:UNKNOWN

TO: cathy r. mays ( CN=cathy r. mays/OU=opd/O=eop@eop [ OPD ] )

READ:UNKNOWN

TO: andrew j. mayock ( CN=andrew j. mayock/OU=who/O=eop@eop [ WHO ] )

READ:UNKNOWN

TO: jgompert@cns.gov ( jgompert@cns.gov @ inet [ UNKNOWN ] )

READ:UNKNOWN

TO: thurgood marshall jr ( CN=thurgood marshall jr/OU=who/O=eop@eop [ WHO ] )

READ:UNKNOWN

TO: elena kagan ( CN=elena kagan/OU=opd/O=eop@eop [ OPD ] )

READ:UNKNOWN

TO: stacie spectator ( CN=stacie spectator/OU=who/O=eop@eop [ WHO ] )

READ:UNKNOWN

TO: karen tramontano ( CN=karen tramontano/OU=who/O=eop@eop [ WHO ] )

READ:UNKNOWN

TEXT:

will be tomorrow (Tuesday) at 3 p.m. 757-2100 code 4129.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAY-1999 16:32:31.00

SUBJECT: LRM MNB72 - - LABOR Report on HR1381 Rewarding Performance in Compensation

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Robert L. Nabors ( CN=Robert L. Nabors/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: Daniel J. Chenok ( CN=Daniel J. Chenok/OU=OMB/O=EOP@EOP [ OMB ] )

READ:UNKNOWN

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

READ:UNKNOWN

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

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Elena Kagan ( CN=Elena Kagan/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: clrm ( clrm @ doc.gov @ inet [ UNKNOWN ] )  
READ:UNKNOWN

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

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

TEXT:

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

In particular, please note the Secretarial veto threat in second to last paragraph.

----- Forwarded by Melissa N. Benton/OMB/EOP on 05/17/99  
04:12 PM -----

LRM ID: MNB72  
EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
Washington, D.C. 20503-0001

Monday, May 17, 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 HR1381 Rewarding Performance in  
Compensation Act

DEADLINE: 11 a.m. Tuesday, May 18, 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: H.R. 1381 is scheduled for Subcommittee markup the morning of Wednesday, May 19th.

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 Courtney B. Timberlake  
 Robert G. Damus  
 Robert L. Nabors  
 Adrienne C. Erbach  
 Sarah S. Lee  
 Janet R. Forsgren  
 James J. Jukes

LRM ID: MNB72 SUBJECT: LABOR Report on HR1381 Rewarding  
 Performance in Compensation Act  
 RESPONSE TO  
 LEGISLATIVE REFERRAL  
 MEMORANDUM

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

You may also respond by:

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

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

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

FROM: \_\_\_\_\_ (Date)  
 \_\_\_\_\_ (Name)  
 \_\_\_\_\_ (Agency)  
 \_\_\_\_\_ (Telephone)

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

- \_\_\_\_\_ Concur
- \_\_\_\_\_ No Objection
- \_\_\_\_\_ No Comment
- \_\_\_\_\_ See proposed edits on pages \_\_\_\_\_
- \_\_\_\_\_ Other: \_\_\_\_\_
- \_\_\_\_\_ FAX RETURN of \_\_\_\_\_ pages, attached to this response sheet

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

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

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D17]ARMS219067948.136 to ASCII,  
The following is a HEX DUMP:

FF57504355180000010A0201000000020500000006A26000000020000C5A38AEF23417108B3A16A

Automated Records Management System  
Hex-Dump Conversion

The Honorable Cass Ballenger  
Chairman  
Subcommittee on Workforce Protections  
Committee on Education and the Workforce  
U.S. House of Representatives  
Washington, D.C. 20515

Dear Chairman Ballenger:

I am writing to provide you with the views of the Department of Labor on H.R. 1381, the "Rewarding Performance in Compensation Act." This bill would amend the Fair Labor Standards Act (FLSA) to exclude from the definition of *regular rate* payments made to reward employees for meeting or exceeding productivity, quality, efficiency, or sales goals as specified in a gainsharing, incentive bonus, commission, or performance contingent bonus plan. The effect of this amendment would be to diminish employees' entitlements for overtime premium pay under the FLSA. The Department of Labor strongly opposes this bill.

This bill would substantially reverse the FLSA's long-standing overtime policy and drastically weaken existing protections for workers. It represents an assault on the 40-hour workweek and an employee's right to receive true time-and-a-half overtime premium pay. Moreover, this bill does nothing to guarantee to workers that they would ever share in their employers' gains that would come from their having to work excessive overtime hours.

The bill would allow an employer to pay artificially low hourly wages and structure a compensation scheme with "excludable" bonus pay that is based upon production or efficiency, enabling an employer to effectively transfer much of its risk to the workers. The bill would not guarantee workers the right to receive any incentive compensation, but it would guarantee employers the right to exclude any such pay from overtime. Workers' only rights if this bill became law would be overtime at time-and-a-half at their artificially decreased hourly wage, not their true regular rate. This will have the perverse effect of encouraging employers to work their employees for longer hours with no guaranteed compensation for their extra work, exactly the opposite of the original intent of the FLSA's overtime standards.

The Department strongly opposes this bill's attempt to undermine workers' rights and the 40-hour workweek. These requirements, which have been in place for over 60 years, provide vital worker protections that discourage employers from working employees excessively long

Automated Records Management System  
Hex-Dump Conversion

hours and ensure fair compensation to employees for the burdens of working extended hours for their employer. Because it is contrary to the best interests of the Nation's workers who would be affected by it, if this bill were presented to the President, I would recommend that he veto it.

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

Sincerely,

Alexis M. Herman

106TH CONGRESS  
1ST SESSION

# H. R. 1381

To amend the Fair Labor Standards Act of 1938 to provide that an employee's "regular rate" for purposes of calculating overtime compensation will not be affected by certain additional payments.

---

## IN THE HOUSE OF REPRESENTATIVES

APRIL 13, 1999

Mr. BALLENGER (for himself, Mr. GOODLING, and Mr. DICKEY) introduced the following bill; which was referred to the Committee on Education and the Workforce

---

## A BILL

To amend the Fair Labor Standards Act of 1938 to provide that an employee's "regular rate" for purposes of calculating overtime compensation will not be affected by certain additional payments.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the "Rewarding Perform-  
5 ance in Compensation Act".

6 **SEC. 2. REGULAR RATE.**

7 Section 7(e)(3) of the Fair Labor Standards Act of  
8 1938 (29 U.S.C. 207(e)(3)) is amended by inserting be-

1 fore the semicolon at the end the following: “; or (d) the  
2 payments are made to reward an employee or group of  
3 employees for meeting or exceeding the productivity, qual-  
4 ity, efficiency, or sales goals as specified in a gainsharing,  
5 incentive bonus, commission, or performance contingent  
6 bonus plan”.

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