

NLWJC - KAGAN

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[06/16/1999-06/29/1999]

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Michael Waldman to Elena Kagan re Good Work [partial] (1 page)	06/17/1999	P6/b(6)
002. email	Michael Waldman to Elena Kagan re Good Work (1 page)	06/17/1999	P6/b(6)
003. email	Robert Johnson to Elena Kagan re nomination (1 page)	06/17/1999	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[06/16/1999-06/29/1999]

2009-1006-F

kc199

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]

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

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

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

RR. Document will be reviewed upon request.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Richard L. Siewert (CN=Richard L. Siewert/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:16-JUN-1999 09:22:41.00

SUBJECT: Guns

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

CC: Raymond H. Payne (CN=Raymond H. Payne/OU=NSC/O=EOP@EOP [NSC])

READ:UNKNOWN

TEXT:

pretty good story --- we would like to get the letter to Brady supporters out by noon while our press corps in Paris is still working. After 6 or so, they'll disappear into the Parisian night.

Clinton Lobbies for Gun Control

WASHINGTON (AP) --"The White House today accused House Republicans of trying to stymie gun

restrictions while

they are ``making

cutting money for new police officers, saying

the case for less cops and more guns.''

tried to shore up

President Clinton, traveling in Europe, also

wavering Democrats.

support for gun-control legislation among

Lampson of

Clinton called two Democrats, Reps. Nicholas

Air Force

Texas and Bob Etheridge of North Carolina, from

International

One en route to Geneva, where he addressed the

Joe

Labor Organization, said White House spokesman

Democrats.

Lockhart. He said Clinton planned to call other

nature of this kind

``The president fully recognizes the political

that these are

of vote,''

he also

the spokesman said. ``He believes

``suffered''

sensible measures that the public demands, but

remembers quite clearly'' that Democrats have

because of past gun votes.

country has shifted
stand up," the

of the National
watered down
loopholes.

"the public is
not the

seeking to cut
communities to hire

leadership is
the
more cops and

to be articulated

tracks attempts by the
Missouri, to
Republicans in

Democrats may
Democrats,
Republicans may
cleared the

show
the

"But I think the president believes that the
on these issues and it's important that people
spokesman said.

Lockhart said the "very pervasive influence"
Rifle Association over the past few weeks has
Senate-passed restrictions and opened new

In calls to lawmakers, Clinton will tell them
expecting them to do the people's business and
NRA's," Lockhart said.

He also took aim at Republican leaders for
funding for Clinton's program to allow local
more officers.

"You have a situation where the Republican
making the case for less cops and more guns and
Democratic leadership is making the case for
less guns," Lockhart said.

"I think that's a powerful message that needs
as we move toward the vote."

Clinton's effort to hold Democrats in line
House's top Democrat, Rep. Dick Gephardt of
persuade two senior Democrats not to join
sponsoring an NRA-backed gun proposal.

The NRA's chief lobbyist believes 40 to 50
support the proposal backed by one of the senior
Rep. John Dingell of Michigan, and 15 to 20
support a White House-backed version that
Senate, with more undecided.

Dingell's proposal contains a provision on gun
background checks that is less restrictive than
Senate-passed measure.

issue in the wake
believing it can help

House Democratic leaders have seized on the
of the Colorado school shootings in April,
the party win control of the House in 2000.

␣#AP-NY-06-16-99 0840EDT

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-JUN-1999 13:59:09.00

SUBJECT: Last call for comments on DOJ Q&As on Hate Crimes

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

READ:UNKNOWN

TO: Lowell A. Weiss (CN=Lowell A. Weiss/OU=WHO/O=EOP@EOP [WHO])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Eric R. Anderson (CN=Eric R. Anderson/O=OVP@OVP [UNKNOWN])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Unless I hear otherwise by Noon tomorrow, Thursday, June 17th, I will assume you have no objection to the proposed Q&As.

If you (1) need another copy of the LRM, (2) intend to comment but need more time, or (3) have provided comments that I may have overlooked, please let me know by answering this E-mail.

Thanks,

Ron Jones (53386)

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-JUN-1999 12:21:12.00

SUBJECT: FINAL CLEARANCE -- Draft SAP - H.R. 1501 Juvenile Justice

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

TO: Mark J. Schwartz (CN=Mark J. Schwartz/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: John T. Carnevale (CN=John T. Carnevale/OU=ONDCP/O=EOP@EOP [ONDCP])
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

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

TO: Jon E. Rice (CN=Jon E. Rice/OU=ONDCP/O=EOP@EOP [ONDCP])

READ:UNKNOWN

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

TO: Eric R. Anderson (CN=Eric R. Anderson/O=OVP@OVP [UNKNOWN])
READ:UNKNOWN

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

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

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

CC: Courtney O. Gregoire (CN=Courtney O. Gregoire/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

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

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

TEXT:

Please provide to me your sign-off ASAP. The bill is now on the floor.

Draft 12:15PM
June 16, 1999
(House)

H.R. 1501 - Consequences for Juvenile Offenders Act of 1999
(McCollum (R) Florida and 19 cosponsors)

H.R. 2122 - Mandatory Gun Show Background Check Act of 1999
(McCollum (R) Florida and Hyde (R) Illinois)

The Administration supports a comprehensive approach to addressing the problem of youth crime and violence. The President has taken the lead to address youth violence on all fronts from the media to the gun industry to parental responsibility. Most importantly, the Administration supports common sense gun legislation to help keep guns out of the hands of children and criminals. Specifically, the Administration supports measures to strengthen the successful Brady Law to require Brady background checks at gun shows and flea markets, and to raise the age of handgun ownership from 18 to 21. In addition, the Administration supports other life-saving measures already passed by the Senate to: require mandatory child safety devices with every new handgun sold; ban the importation of large capacity ammunition clips; prohibit violent juveniles from buying guns as adults; and bar juvenile possession of assault rifles.

The Administration opposes H.R. 2122, which fails to close the gun show loophole. The bill contains a narrower definition of "gun show" that would not cover flea markets and other such commercial venues where

hundreds of guns are regularly bought and sold. In addition, the bill creates a safe harbor for criminals by creating a new class of "instant check registrants" to do background checks at gun shows -- undermining law enforcement efforts to trace firearms that are later used in crimes. We also oppose the Dingell amendment, which maintains many of H.R. 2122's worst features and makes others worse. For example, it shortens the amount of time law enforcement officials have to conduct background checks. According to the FBI, if this 24 hour limit were applied to all current background checks, an estimated 17,000 criminals would have been able to purchase guns over the past 6 months.

We strongly support the McCarthy/Roukema amendment, the only amendment to H.R. 2122 that will close the gun show loophole once and for all.

In addition, the Administration supports comprehensive legislation to strengthen youth responsibility and accountability by juvenile offenders. While the Administration recognizes the importance of addressing juvenile crime, it is only through a comprehensive approach to crime -- including prevention, intervention, and punishment -- that we can continue to lower our crime rate, improve the safety of our communities, and deter children and adults from a life of crime.

To this end, the Administration supports the Conyers substitute. This amendment reauthorizes the office of Juvenile Justice and delinquency prevention and the office of Community Oriented Policing Service (COPS) -- which has made a significant contributions to our nation's safer streets. The President proposed nearly \$1.3 billion in his FY 2000 budget - and nearly \$6.4 billion over the next five years - for a new 21st Century Policing Initiative to help communities build on their efforts under the COPS program. This initiative will enable communities to continue to hire, redeploy, and retain police officers; to give law enforcement officers access to the latest crime-fighting technologies; to hire community prosecutors; and to foster community-wide prevention. These successful tools in the fight against crime must be an integral part of any legislation that seeks to make our streets safer, but they are not included in current House legislation.

In addition, the Administration has concerns with the McCollum amendment, which would treat certain juveniles prosecuted in the federal system too harshly by failing to provide needed safeguards for younger juveniles, and juveniles who are charged with less serious crimes.

Finally, the Administration supports serious efforts to address the issue of media violence and its effects on young people. That is why the President has taken the lead in challenging the entertainment industry to live up to its responsibilities and initiating both a Surgeon General's report on youth violence and a joint FTC/DOJ study of the industry's marketing practices. The Administration, however, opposes an expected amendment to ban the distribution of certain violent material to teenagers. A broad prohibition of this kind on the sale or exhibition of violent materials would raise profound First Amendment concerns -- so much so that the drafters of this provision have included expansive loopholes that insofar as they address constitutional problems would render the provision, in critical respects, virtually impossible to enforce and therefore meaningless.

* * * *

(Do Not Distribute Outside Executive Office of the President)

This Statement of Administration Policy was developed by the Legislative Reference Division (Jones), in consultation with the Departments of Justice (Jones) and the Treasury (Levy), the Office of National Drug Control Policy (Rice), the Domestic Policy Council (Kagan, Cerda), and TCJSD (Boden).

Due to time constraints it was not circulated broadly.

OMB/LA Clearance:

H.R.1501 was introduced on April 21, 1999 and referred to the full House Judiciary Committee by the Crime Subcommittee on April 22, 1999. There was no full Judiciary Committee action on the bill.

H.R. 2122 was introduced on June 10 and was to the House Judiciary Committee. The Committee did not hold hearings on H.R. 2122.

Administration Position to Date

The Administration has taken no position on H.R. 1501 or H.R. 2122.

Descriptions of H.R. 1501 and H.R. 2122

The following description is based on the versions of the bills as introduced and summaries of the most significant of the 55 amendments that were ruled in order by the House Rules Committee. The Rules Committee issued the rule for floor debate of these bill at approximately 1 AM on June 16th and we have not seen the text of the amendments.

H.R. 1501 as Introduced. H.R. 1501 would authorize appropriations to the Justice Department of \$500 million for each of fiscal years 2000 through 2002 for grants to State and local governments. To receive the grants States would be required to implement systems of graduated sanctions for juvenile offenders. The sanctions would be proportional to the offense committed and would increase if the individual commits additional crimes. Sanctions could include counseling, restitution, community service, a fine, supervised probation or confinement. Each State would be required to submit an annual written report detailing the reasons for any divergence from a graduated sanction by a court in that State.

States and localities also could use a portion of the grant awards for other purposes including::

- building or expanding facilities;
- establishing juvenile gun courts and drug court programs;
- hiring additional prosecutors, judges and probation officers;
- promoting mental health screening and treatment;
- establishing or expanding substance abuse programs;
- training law enforcement personnel and establishing school safety programs;

- maintaining juvenile record systems and establishing interagency information-sharing programs;
- conducting research on drugs, gangs and youth violence;
- purchasing new technology and equipment to expedite the prosecution of violent juvenile offenders; and
- establishing accountability programs to reduce recidivism among juveniles.

Description of Hyde Amendment to H.R. 1501 -- Protecting Children from the Culture of Violence. The Hyde Amendment (similar to H.R. 2036) would:

- Prohibit the sale or display to minors of any explicit sexual material or explicit violent material and subject violators to 5 years imprisonment for first offenses and up to 10 years for subsequent convictions;
- Require the National Institutes of Health to study the effects of video games and music on child development and youth violence, especially whether (1) video games and music affect the emotional and psychological development of juveniles and (2) violence in video games and music contributes to juvenile delinquency and youth violence;
- Provide an exemption from antitrust laws for any joint action or agreement by or among persons in the entertainment industry for the purpose of developing and disseminating voluntary guidelines designed to (1) alleviate the negative impact of telecast material, movies, video games, Internet content, and music lyrics containing violence, sexual content, criminal behavior, or other subjects that are not appropriate for children, or (2) promote telecast material, movies, video games, Internet content, or music lyrics that are educational, informational, or otherwise beneficial to the development of children; and
- Authorize \$5 million annually for FYs 2000-2004 for a Justice Department grant to the National Center for Neighborhood Enterprise to enable the National Center to fund grassroots entities to establish violence-free zone in nine cities.

The bill also includes a Sense of the Congress provision that retailers who sell records, tapes, CDs, and other sound recordings over the counter should make copies of the lyrics available to persons over the age of 18 for their on-site review.

Description of H.R. 2122

H.R. 2122 would: require background checks of sales that take place at gun shows where 50 or more guns were offered for sale; at least one of which was shipped in interstate commerce, and where there are at least 10 firearms vendors. The Senate passed similar provisions in S. 254, which does not contain the exception for gun shows with fewer than 10 licensed dealers. Law enforcement officials would have 72 hours to conduct the background check instead of 3 working days as permitted under S. 254.

The bill would require every handgun to be sold with a secure gun storage or safety device but defines a safety device to include any part that would render the handgun inoperable. This definition would include the trigger mechanism and, therefore, would not require any change to how firearms are currently sold.

Pay-As-You-Go Scoring

Per BASD (Balis) H.R. 1501 and H.R. 2122 would affect receipts (criminal fines) and direct spending (outlays from the Crime Victims Fund); therefore, it is subject to the pay-as-you-go requirements of the Omnibus Budget Reconciliation Act. The criminal fines are deposited into the Crime Victims Fund and are available for use in the following year, and this Office estimates the net budget effect in any one year is negligible. CBO's position is not known.

LEGISLATIVE REFERENCE DIVISION
June 16, 1999 - 11:37 AM

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-JUN-1999 14:03:19.00

SUBJECT: Latest version of Cureton summary. -Forwarded

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Attached below is the latest version of the disputed portion of the brief. Once you hit "view" you can skip down to point 3, beginning with "We do not take a position on the merits issues [sic] raised in this appeal. . . . "

Please let me know if there are objections or suggested revisions to this section. Thank you.

----- Forwarded by Peter Rundlet/WHO/EOP on 06/16/99

02:00 PM -----

Anita Hodgkiss <Anita.Hodgkiss@usdoj.gov>

06/16/99 12:41:00 PM

Record Type: Record

To: Peter Rundlet/WHO/EOP

cc:

Subject: Latest version of Cureton summary. -Forwarded

Attached is where we seem to be now on the crucial paragraphs.

Date: 06/15/1999 06:07 pm (Tuesday)

Subject: Latest version of Cureton summary.

- cure_i&s.wpd

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D51]ARMS290350573.136 to ASCII,
The following is a HEX DUMP:

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

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.

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

File Name: p_e5962487_who_html_3.xls

Attachment Number: [ATTACH.D66]MAIL49842695H.216 to ASCII

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-JUN-1999 17:27:09.00

SUBJECT: Weekly Education Strategy Meeting

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

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

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

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

TO: LYNCH_V@A1@CD@VAXGTWY@VAXGTWY (LYNCH_V@A1@CD@VAXGTWY@VAXGTWY [UNKNOWN])
READ:UNKNOWN

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CC: Courtney O. Gregoire (CN=Courtney O. Gregoire/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TEXT:

We will be having the weekly Education Strategy Meeting tomorrow,
Thursday, June 17, at 5:15 p.m. in Bruce Reed's office.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-JUN-1999 18:16:24.00

SUBJECT: NCAA brief

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Elena,

Justice agreed to your word change in the first paragraph of the section in dispute. Education and Justice objected to taking out the second paragraph, however, because of the need for clarity regarding the correct legal standards that apply, as explained in the footnote, which you did not receive on the last version. It is copied below. To address your concerns, though, Chuck suggested that we take out the language suggesting that the court "correctly held that a recipient can use a cutoff score . . ." and instead simply state that the court "applied" the legal standards and then cite to this footnote. I hope that this compromise works for everyone.

1/ The district court mentioned, but did not apply to Title VI, the 1991 amendments to Title VII that require a defendant to bear both a burden of production and persuasion on its business necessity justification. 37 F. Supp. 2d at 697. See 42 U.S.C. 2000e(m), 2000e-2k(1)(A). Although the alleged discrimination in this case occurred after 1991, the court appears to have applied the previous standard, set out in *Wards Cove Packing Co. v. Atonio*, 490 U.S. 642 (1989), that the defendant bears only a burden of producing evidence that the challenged employment practice has a legitimate business justification. If this Court agrees with the district court's ruling that the NCAA failed to meet its burden under *Wards Cove* because it [has not produced any evidence demonstrating that the cutoff score used in Proposition 16 serves, in a significant way, the goal of raising student-athlete graduation rates] (37 F. Supp. at 712), it will be unnecessary for the Court to determine whether the district court erred in failing to require the NCAA to satisfy the heavier burden imposed by the Civil Rights Act of 1991. Cf. *Elston v. Talladega County Bd. of Educ.*, 997 F.2d 1394, 1407 n.14 (11th Cir. 1993). In any event, this Court should not resolve this important issue without the benefit of full briefing from the parties (see NCAA Br. at 47 n.19, Cureton Br. at 36 n.19).

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-JUN-1999 18:44:10.00

SUBJECT: Re: NCAA brief

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

READ:UNKNOWN

TEXT:

No, the first "correctly" is necessary for the point made in the footnote and it does not appear to raise the same concerns that we are endorsing a finding that the cutoff score violated Title VI. This is the point, i.e., that Title VII standards provide guidance on Title VI, that the NCAA does not dispute.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-JUN-1999 19:39:22.00

SUBJECT: FINAL Draft House Rules SAP for H.R. 2084 -- Transportation and Related Ag

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])
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TO: Miles M. Lackey (CN=Miles M. Lackey/OU=NSC/O=EOP@EOP [NSC])
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TO: Michelle Peterson (CN=Michelle Peterson/OU=WHO/O=EOP@EOP [WHO])
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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: Linda Lance (CN=Linda Lance/OU=CEQ/O=EOP@EOP [CEQ])
READ:UNKNOWN

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

CC: Courtney O. Gregoire (CN=Courtney O. Gregoire/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

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

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

CC: Scott R. Hynes (CN=Scott R. Hynes/O=OVP@OVP [UNKNOWN])
READ:UNKNOWN

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

CC: Mara E. Rudman (CN=Mara E. Rudman/OU=NSC/O=EOP@EOP [UNKNOWN])
READ:UNKNOWN

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

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

TEXT:

Attached for your clearance is a draft House Rules SAP for H.R. 2084 --
Transportation and Related Agencies Appropriations Bill, FY00. H.R. 2084
is scheduled for House Rules on Thurs, June 17. Please provide your
sign-off and/or comments to me no later than 10:00AM Thurs morning. Thank
you!

Draft 7:40PM

June __, 1999

(House Rules)

H.R. 2084, DEPARTMENT OF TRANSPORTATION
AND RELATED AGENCIES APPROPRIATIONS BILL, FY 2000
(Sponsors: Young (R), Florida; Wolf (R), Virginia)

This Statement of Administration Policy provides the
Administration's views on the Transportation and Related Agencies
Appropriations Bill, FY 2000, as reported by the House Appropriations
Committee. Your consideration of the Administration's views would be
appreciated.

The Administration appreciates the Committee's efforts to
accommodate many of the Administration's priorities within its 302(b)
allocation, particularly the funding provided for Amtrak. However, the
Administration is concerned about some of the choices made necessary by

this allocation.

The President's FY 2000 Budget proposes levels of discretionary spending that meet important national needs while conforming to the Bipartisan Budget Agreement by making savings proposals in mandatory and other programs available to help finance vital spending needs. Congress has approved and the President has signed into law nearly \$29 billion of such offsets in appropriations legislation since 1995. The Administration urges the Congress to consider such proposals as the FY 2000 appropriations process moves forward.

The Administration proposes to meet important transportation safety, mobility, and environmental requirements by reallocating a portion of the increased spending permitted by higher-than-anticipated highway excise taxes. Under this proposal, every State would receive at least as much funding as was assumed when the Transportation Equity Act for the 21st Century was enacted. Last year, Congress chose to reallocate limited funding within the highway guarantee.⁸ The House is encouraged to build upon this by enacting the Administration's proposal as a means to fund these important priorities.

The Administration is concerned that the Committee bill could compromise the Federal Aviation Administration's (FAA's) operations and modernization programs, reduce highway and motor carrier safety, and under-fund other important programs. The House could partially accommodate the funding increases recommended below by adhering more closely to the President's request for the Airport Improvement Program, High Speed Rail, Coast Guard Alteration of Bridges, Coast Guard capital improvements, and other programs.

The Committee is commended for permitting transit discretionary grants to be allocated according to the needs-based formula agreed to in the Transportation Equity Act for the 21st Century, instead of arbitrarily restricting individual States' funding. The Committee is commended for not prematurely encouraging the closure of Coast Guard training facilities without regard to the results of the ongoing Coast Guard review as to the best use of those facilities.

The following highlights our specific concerns with the Committee bill.

Aviation Safety and Modernization

The Administration strongly urges the House to fully fund the Administration's request for FAA Operations. The \$114 million, or two-percent, reduction made by the Committee would force the FAA to close low-level towers, defer hiring of safety and security personnel needed to meet the demands of increased air travel, and possibly slow air travel. The Administration is concerned with the Committee's reduction of \$6.6 million in FAA's request for rental payments to the General Services Administration. Since rent is a mandatory payment, FAA would have to reduce operating spending further to absorb this reduction.

The House is also urged to restore the \$119 million, or five-percent, reduction to the FAA Facilities and Equipment account. The Committee's funding level could undermine our National Airspace System modernization program. Safety projects as well as critically-needed capacity enhancing projects would be delayed, increasing future air travel delays. For example, the Administration urges the House to provide the

requested \$17 million in critically-needed funding to ensure timely implementation of a Global Positioning System (GPS) modernization plan that will help enable transition to a more efficient, GPS-based air navigation system.

The Administration supports the Committee's decision to eliminate the General Fund subsidy for FAA Operations but urges the Congress to enact a user fee system to finance the agency. Such a system would improve the FAA's efficiency and effectiveness by creating new incentives for it to operate in a business-like manner.

Motor Carrier Safety

The Secretary of Transportation recently announced a comprehensive Motor Carrier Safety Action Plan to implement much-needed improvements in truck safety. The need for these improvements has been recognized by the Appropriations Subcommittee and Congress overall, the Department of Transportation Inspector General, and an independent assessment conducted by former Congressman Mineta. The House is urged to provide the additional \$50 million for the National Motor Carrier Safety Grant program to undertake the improvements in enforcement, research, and data activities designed to increase safety on our Nation's roads and highways.

Highway Safety

The Administration is concerned that the Committee has provided \$36 million less than the President has requested for the National Highway Traffic Safety Administration's Operations and Research account. This funding reduction would limit important research activities on advanced air bags, crash worthiness, and the enhanced research testing proposed in the New Car Assessment program to make better car safety information available to the public.

CAFE Standards

The Administration

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-JUN-1999 20:00:13.00

SUBJECT: FINAL CLEARANCE -- Draft letter on Ag/Rural Development Approps Bill

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

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

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

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

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

TEXT:

Attached for final clearance is a draft letter to the Senate Appropriations Committee on the Agriculture and Rural Development Approps Bill, FY00. The Full Committee mark-up of this bill is scheduled for Thurs, June 17. Please provide your sign-off or clearance to me no later than 10:00AM Thurs morning. Thank you!

Please note that Jack Lew has not had the opportunity to review this draft.

DRAFT

The Honorable Ted Stevens
Chairman
Committee on Appropriations
U.S. Senate
Washington D.C. 20510

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 Senate Subcommittee. Since the Administration has not had an opportunity to review the Subcommittee's bill and report language, our comments are based on preliminary information. 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 Senate 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 meet such needs while conforming to the Bipartisan Budget Agreement by making

savings proposals in mandatory and other programs available to help finance this spending. Congress has approved, and the President has signed into law, nearly \$29 billion of such offsets in appropriations legislation since 1995. 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 over \$500 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.

Food and Drug Administration

While the Administration is pleased that the Subcommittee has reportedly provided an increase over the FY 1999 enacted level for the FDA, we are disappointed that the Subcommittee has apparently not funded the full request for the FDA, including important youth tobacco prevention activities and the proposed seafood inspection program transfer.

The Administration is concerned that the Subcommittee's apparent reduction of \$40 million from the President's request for non-foods/tobacco FDA activities would jeopardize the FDA's ability to improve the public health infrastructure through enhanced product safety assurance and injury reporting systems.

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. This is particularly important in light of the recent decision of the conferees on the FY 1999 Emergency Supplemental Appropriations Act to permit States to retain the entire amount secured from tobacco companies without any commitment whatsoever from the States that those funds be used to reduce youth smoking. To help discourage youth smoking, we urge the Congress to consider the Administration proposal to increase tobacco taxes.

Food Safety Initiative

The Administration appreciates the Subcommittee's support for the President's Food Safety Initiative through increases above the enacted and House bill levels provided to USDA and FDA. Nonetheless, we are concerned that the Committee has reportedly provided only \$46 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 and FDA's food safety research and risk assessment capabilities. We strongly urge the Committee to provide full funding at the requested levels for these activities and consider the Administration's meat inspection fee proposal.

Women, Infants, and Children Program

The Administration strongly supports the \$33 million increase for WIC over the House level. The Committee mark should sustain a participation level of 7.4 million in FY 2000. We remain concerned, however, that this is still insufficient to support the projected average monthly participation level of 7.5 million, thereby not achieving our longstanding 7.5 million goal.

Food and Nutrition Service Research

The Administration strongly objects to any provision of the Committee bill that would prohibit the use of Food and Nutrition Service (FNS) funds for research and evaluations on nutrition programs. To address program integrity and performance issues properly, it is crucial that research on nutrition programs also occur in the context of the programs' administration. We urge the Committee to provide funding for these activities within FNS.

Common Computing Environment

The Administration is very concerned by the Subcommittee's decision not to fund the Common Computing Environment, either directly through the Support Service Bureau as requested in the President's Budget or by providing additional funds in the county-office agency salaries and expense accounts. Some in Congress have criticized 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, and for long waiting periods some farmers and rural residents have faced in receiving other assistance through USDA county offices. Yet this bill would not provide the funds needed to address the very problems that contributed to the delays. At a time when the farm community is under financial stress and the demand for farm credit and other programs is high, the need for timely and efficient service to producers and rural residents has never been greater. Without the proposed \$74 million in funding, it will not be possible 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.

Conservation and Environmental Programs

The Subcommittee bill appears to cut spending on key USDA conservation programs by at least \$140 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 voluntary conservation measures critical to protecting our natural resources. To further advance this important work, including addressing the significant backlog of farmers' requests for aid, the Administration requested a \$100 million increase in the EQIP program as part of its Clean Water Action Plan. The combination of the EQIP reduction and the Subcommittee's failure to fund the requested additional funds for

technical assistance to animal feeding operations could damage livestock owners, progress toward ensuring that their operations are environmentally sound and community-friendly.

Other valuable environmental programs would be severely underfunded by the Subcommittee bill, and we urge the Committee to restore funding for them. The Subcommittee failed to fund the \$50 million discretionary portion of the Administration's request for the Farmland Protection Program, which is part of the Administration's Lands Legacy Initiative. America's farmers need these funds to help them stay on their land, through easements that permanently protect 80,000 acres of prime farmland from development. We urge the Committee to provide the \$50 million in discretionary funds requested for the program and redirect its 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. In addition, the Subcommittee has not provided the \$12 million requested in the Conservation Operations account to assess soil management's effects on carbon sequestration, and \$5 million for USDA's initiative to help communities make use of geospatial data to make more informed land use decisions and promote smart growth. The Administration recommends funds be redirected to these high-priority activities, such as by eliminating the Forestry Incentives Program as requested and as included in the House bill.

Outreach for Socially Disadvantaged Farmers

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 in which it now operates, to further these farmers' equal access and their opportunity for success, and to continue USDA's work to improve its civil rights performance.

Research

The Subcommittee bill would fund USDA's National Research Initiative at \$81 million below the request of \$200 million, while providing funding for a large number of unrequested, earmarked research grants. We urge the Committee to increase the funding for competitive research grants and reduce earmarks for lower-priority programs.

Rural Development

The Administration appreciates the support in the Subcommittee bill for priority USDA rural development programs, such as water and wastewater loans and grants, Business and Industry guaranteed loans, and rental assistance for very-low income rural residents. The Administration is concerned, however, that the Subcommittee bill's funding for Rural Development salaries and expenses would jeopardize effective implementation of these programs. The \$25 million, or five percent, reduction from the requested salaries and expenses funding could require USDA to eliminate over 400, or six percent, of its staff through a Reduction-In-Force. We urge the Committee to provide the requested level of funding to ensure an adequate delivery system for these vital programs for rural America.

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,
and The Honorable Marcy Kaptur

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Kris M Balderston (CN=Kris M Balderston/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:17-JUN-1999 09:20:56.00

SUBJECT: AG-press conf.

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

In response to your Q about the AG doing press. If we want them to do it we need to tell them accdg to DOJ.

----- Forwarded by Kris M Balderston/WHO/EOP on 06/17/99
09:19 AM -----

Setti D. Warren

06/17/99 09:17:33 AM

Record Type: Record

To: See the distribution list at the bottom of this message

cc:

Subject: AG-press conf.

The AG will not be back in Washington until 2pm today. There is no planned press conf., but they are looking for guidance from us today on what we would like them to do.

Message Sent

To: _____

Loretta M. Ucelli/WHO/EOP@EOP

Stephanie A. Cutter/WHO/EOP@EOP

Richard L. Siewert/WHO/EOP@EOP

Jose Cerda III/OPD/EOP@EOP

Kris M Balderston/WHO/EOP@EOP

Thurgood Marshall Jr/WHO/EOP@EOP

Leanne A. Shimabukuro/OPD/EOP@EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-JUN-1999 12:42:56.00

SUBJECT: URGENT NEED COMMENTS NO LATER THAN 1:00PM -- FINAL CLEARANCE -- FOREIGN OP

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])

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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])

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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])

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

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

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

CC: Scott R. Hynes (CN=Scott R. Hynes/O=OVP@OVP [UNKNOWN])
READ:UNKNOWN

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

CC: Mara E. Rudman (CN=Mara E. Rudman/OU=NSC/O=EOP@EOP [UNKNOWN])
READ:UNKNOWN

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

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

TEXT:

SENATE FULL COMMITTEE MARK UP OF THE FOREIGN OPS BILL IS SCHEDULED FOR
TODAY AT 2:00PM. NEED CLEARANCE AND COMMENTS NO LATER THAN 1:00PM. MY
APOLOGIES FOR THE SHORT TURNAROUND. THANK YOU!

PLEASE NOTE THAT JACK LEW AND SYLVIA MATHEWS HAVE NOT HAD THE OPPORTUNITY
TO REVIEW THIS DRAFT.

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D6]ARMS238302675.136 to ASCII,
The following is a HEX DUMP:

FF575043D5040000010A0201000000020500000067110000000200007A1114AFDE4002FC85B7FA
9273386E28FA4EFC780CAFDC130C1C7CAF76F672024A23E98B42FCD67C9F2C9AA4210030E924FA

June 17, 1999

Dear Chairman Stevens:

The purpose of this letter is to provide the Administration's views on the FY 2000 Foreign Operations appropriations bill. As the Committee develops its version of the bill, your consideration of the Administration's views would be appreciated. These views are based on incomplete information since the Administration has not had the opportunity to review the draft bill and report language, and are, therefore, necessarily preliminary.

The allocation of discretionary resources available to the Senate 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 meet such needs while conforming to the Bipartisan Budget Agreement by making savings proposals in mandatory and other programs available to help finance this spending. Congress has approved, and the President has signed into law, nearly \$29 billion of such offsets in appropriations legislation since 1995. The Administration urges the Congress to consider such proposals.

The Administration appreciates efforts by the Committee to accommodate certain of the President's priorities within the 302(b) allocation. However, it is our understanding that the Committee bill is over \$1.9 billion, or 13 percent, below the program level requested by the President. A bill funded at this level would be grossly inadequate to maintain America's leadership around the world. It would inevitably require reductions from previously enacted levels for programs managed by the Departments of State and Treasury, the Agency for International Development and others.

The bill, for example, would increase our arrears to various multilateral development banks, and preclude our leadership in reducing debt of the poorest countries. It would undercut our efforts to reduce the proliferation of weapons of mass destruction in Russia and would remove any discretion the President has to respond to a host of threats around the world.

The Administration also has problems with many language provisions that we understand may be in the bill. Various provisions concerning Kosovo and Russia, for example, in the context of difficult and sensitive negotiations are particularly ill-advised. There are also a large number of earmarks and other restrictions that would significantly hinder the achievement of American foreign policy goals.

If our understanding of the bill's funding level and language issues is correct, then the President's senior advisors would have no choice but to recommend that he veto this bill.

Sincerely,

*Automated Records Management System
Hex-Dump Conversion*

17 June 1999
12:37:25

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Michael Waldman to Elena Kagan re Good Work [partial] (1 page)	06/17/1999	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[06/16/1999-06/29/1999]

2009-1006-F
kc199

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

[001]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-JUN-1999 16:23:34.00

P6(b)(6)

From: Julia M. Payne on 06/17/99 04:22:06 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc: Sarah Wilson/WHO/EOP@EOP
Subject: President Clinton nominates three to Federal Bench

THE WHITE HOUSE

Office of the Press Secretary
(Cologne, Germany)

For Immediate
Release
June 17, 1999

PRESIDENT CLINTON NOMINATES MARYANNE TRUMP BARRY, JAMES E. DUFFY, JR.,
AND ELENA KAGAN TO THE FEDERAL BENCH

The President today nominated Maryanne Trump Barry to the U.S. Court of Appeals for the Third Circuit (New Jersey), James E. Duffy, Jr. to the U.S. Court of Appeals for the Ninth Circuit (Hawaii), and Elena Kagan to the U.S. Court of Appeals for the District of Columbia Circuit.

Judge Maryanne Trump Barry, of Sparta, New Jersey, has been a United States District Judge for the District of New Jersey since 1983. She received her B.A. in 1958 from Mount Holyoke College, her M.A. in 1962 from Columbia University, and her J.D. in 1974 from Hofstra University School of Law. Prior to her appointment as a U.S. District Judge in 1983, Barry had worked for nine years in the Office of the U.S. Attorney in New Jersey, serving in a variety of capacities including: Assistant U.S. Attorney (1974-75), Deputy Chief of the Appeals Division (1976-77), Chief of the Appeals Division (1977-82), Executive Assistant U.S. Attorney (1981-82), and First Assistant U.S. Attorney (1981-83). As a U.S. District Judge, Barry served as the Chair of the Criminal Law Committee of the Judicial Conference (1994-96).

James E. Duffy, Jr., of Honolulu, Hawaii, has been a partner in the Honolulu law firm of Fujiyama, Duffy and Fujiyama since 1975. Although born and educated on the mainland, Duffy has been a litigator in Hawaii for his entire legal career. He received his B.A. from the College

of St. Thomas and his J.D. from Marquette University Law School in 1968. Upon graduation from law school, Duffy moved to Hawaii and entered private practice, first as an associate at Cobb and Gould (1968-71), then as an associate at Chuck and Fujiyama (1972-74). Duffy has been a partner at Fujiyama, Duffy and Fujiyama for almost 25 years.

Elena Kagan, of the District of Columbia, will be a Visiting Professor at Harvard Law School beginning in July 1999. She received a B.A. summa cum laude from Princeton University (1981), a M. Phil. from Oxford University (1983), and a J.D. magna cum laude from Harvard Law School (1986). Following law school, she clerked on the U.S. Court of Appeals for the D.C. Circuit for Judge Abner Mikva (1986-87) and on the U.S. Supreme Court for Justice Thurgood Marshall (1987-88). Kagan was then an associate at Williams and Connolly (1989-91). She joined the faculty of the University of Chicago Law School as an assistant professor in 1991 and became a full professor with tenure in 1995. Kagan was Special Counsel to the Senate Judiciary Committee during the confirmation hearings of Ruth Bader Ginsburg (Summer 1993). She served as Associate Counsel to the President from 1995 to 1996 and Deputy Assistant to the President for Domestic Policy and Deputy Director of the Domestic Policy Council from 1997 to 1999. In addition, she has been a member of the Board of Governors of the Chicago Council of Lawyers and a public member of the Administrative Conference of the United States.

30-30-30

Message Sent

To:

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Dorian V. Weaver/WHO/EOP@EOP
Catherine T. Kitchen/WHO/EOP@EOP
Brenda M. Anders/WHO/EOP@EOP
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BARBUSCHAK_K@A1 @ CD @ LN GTWY
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JOHNSON_WC@A1 @ CD @ LN GTWY
SUNTUM_M@A1 @ CD @ LN GTWY
WOZNIAK_N@A1 @ CD @ LN GTWY
edwin.chen@latimes.com@inet
backup@wilson.ai.mit.edu @ inet
newsdesk@usnewswire.com @ inet
usia01@access.digex.com @ inet
usnwire@access.digex.com @ inet
GRAY_W@A1 @ CD @ LN GTWY
NAPLAN_S@A1 @ CD @ LN GTWY
WEINER_R@A1 @ CD @ LN GTWY
GRIBBEN_J@A1 @ CD @ LN GTWY
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Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. email	Michael Waldman to Elena Kagan re Good Work (1 page)	06/17/1999	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[06/16/1999-06/29/1999]

2009-1006-F
kc199

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

CREATION DATE/TIME:17-JUN-1999 16:34:50.00

SUBJECT: Re:

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

READ:UNKNOWN

TEXT:

I do think counsel look a little too chummy in the graphic! But I will
be rooting for you!

Withdrawal/Redaction Marker

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
003. email	Robert Johnson to Elena Kagan re nomination (1 page)	06/17/1999	P6/b(6)

COLLECTION:

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

FOLDER TITLE:

[06/16/1999-06/29/1999]

2009-1006-F
kc199

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

CREATION DATE/TIME:17-JUN-1999 19:09:35.00

SUBJECT: FW: Latest Draft of Testimony for Oversight Hearing

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

READ:UNKNOWN

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

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

READ:UNKNOWN

TEXT:

Attached below is the latest draft of Norma Cantu's proposed written testimony for Thursday. I have not yet read it yet. The formal written testimony must be submitted to the Committee by Monday morning. In the actual hearing, Hoekstra has asked her to limit her verbal testimony to five minutes. Please let me know what additions or changes you would suggest. Thank you.

----- Forwarded by Peter Rundlet/WHO/EOP on 06/17/99
06:37 PM -----

"Bowers, Susan" <Susan_Bowers@ed.gov>

06/17/99 06:19:41 PM

Record Type: Record

To: Peter Rundlet/WHO/EOP

cc:

Subject: FW: Latest Draft of Testimony for Oversight Hearing

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

> From: Bowers, Susan

> Sent: Thursday, June 17, 1999 6:18 PM

> To: Winnick, Steve; Coleman, Arthur; Pierce, Raymond; Cantu, Norma V;

> Dorka, Lilian; Rairdin, Kae; Fleming, Scott; Lewis, Cathy H; Lim,

> Jeanette; 'Peter_Rundlet@oa..eop.gov'

> Subject: FW: Latest Draft of Testimony for Oversight Hearing

> Importance: High

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> Subject: Latest Draft of Testimony

DEPARTMENT OF EDUCATION

Statement by

Norma V. Cantú

Assistant Secretary for Civil Rights

Mr. Chairman and Members of the Committee:

Thank you for inviting me to appear before you today and providing the opportunity to describe how the Office for Civil Rights furthers the mission of the Department of Education: To ensure equal access to education and promote educational excellence throughout the nation. Before I address the specific questions you asked, I would like to explain how OCR does business and how our new way of doing business provides flexibility and maintains educational soundness.

INTRODUCTION

The Office for Civil Rights' mission, which is fully aligned with that of the Department, is to ensure equal access to a high quality education for all students through the enforcement of civil rights. OCR is responsible for enforcing five federal civil rights statutes that prohibit discrimination on the basis of race, color, national origin, sex, disability, and age. OCR carries out its enforcement responsibilities by resolving the approximately 5,000 complaints we receive each year and monitoring resolution agreements to ensure that they are fully implemented. We also provide flexibility to states by building collaborations with state and local education agencies, and creating partnerships with parents, students, and other stakeholders to prevent civil rights problems and to stop illegal discrimination.

There is wide consensus that excellence in education is the critical issue facing the nation. We know that to retain our strength in the new world economy we must focus on high academic standards for all our children. Devoting significant resources to programs that strengthen high-performance education is critical, but it would be a devastating waste of human capital if all of our nation's students are not permitted to benefit from these reform efforts. To accomplish our national educational goals, excellence and equity must go hand-in-hand.

To ensure equal access to high-quality education for every student, OCR works with schools, colleges, and parent and community groups to achieve common goals. We believe that OCR has made a real difference in the lives of students and can count millions of students whose educational lives have been improved as a result of OCR's work.

OCR has three objectives: 1) work with school districts, colleges, and universities to eliminate discriminatory educational practices; 2) empower parents and students to learn to resolve problems of securing equal access to quality education; and 3) obtain results by the efficient management of civil rights compliance activities. We incorporate these objectives and hold ourselves accountable for how we do business in four ways.

First, OCR has improved the educational experience for increasing numbers of students. In fiscal year 1998, we had a positive impact on the educational experiences of nearly 6 million students. We have achieved much of this impact through collaborative efforts with states and state systems of education. For example, the Office for Civil Rights and the

Commonwealth of Pennsylvania entered into a partnership agreement to increase access to higher education opportunities in Pennsylvania. The commitments developed by the partnership promise a high level of support by all components within the Pennsylvania education system for efforts to expand higher education opportunities for minority students in Pennsylvania. We anticipate that the successful implementation of these commitments will be effective in expanding access to higher education, in revitalizing our country's oldest historically black university, Cheyney University, and in increasing the retention and graduation of minority students in Pennsylvania, consistent with the goals of our partnership. The president of Cheyney has stated that the partnership is "a perfect fit for the direction Cheyney needs to go to fulfill its vision for the future." (*Philadelphia Inquirer*, June 4, 1999)

Another example of successful collaboration is our work over the past several years with the Michigan Department of Education (MDE.) MDE and OCR have worked collaboratively to resolve compliance issues identified within Michigan regarding educational services to limited-English proficient (LEP) students. Some of the excellent partnership results include: an English-as-a-Second Language (ESL) endorsement for certified teachers where no such endorsement was available previously; a plan to increase the number of qualified teachers providing instruction to LEP students; as well as collection of data by MDE from school districts regarding LEP student's academic performance and access to core content, and information about programs designed to teach LEP students English. In addition, relative to MDE's school assessment and improvement programs, MDE will disaggregate the results for LEP students and will promote appropriate responses to the needs of LEP students based on those results. These

activities will have an impact on approximately 50,000 LEP students in Michigan.

In another proactive effort, OCR worked with the California Community College System to help students with visual impairments. It is important to note that California has the nation's largest community college system in the nation, serving more than one million students. Yet, students who were visually impaired were denied access to print materials and computer-based information that was essential to their coursework. OCR, through its work with administrators of these 110 community colleges, improved access to necessary educational information for thousands of already-enrolled visually impaired students.

Each success story — whether it is providing library and computer materials to visually impaired students in state-wide community college system comprising 110 separate colleges — or moving an African American child out of the regular curriculum and into the gifted and talented courses appropriate for him or her --- validates our work.

Secondly, we have worked to ensure that recipients (school districts, colleges and universities, state education agencies) change policies, procedures, or practices to comply with federal civil rights law. Through collaboration and partnership, we have been able to facilitate understanding of civil rights obligations, bring change, and hopefully deter discrimination. We believe that these changes result in fewer “copy cat” complaints being filed. The civil rights laws enforced by OCR cover the nation's public schools, colleges and universities, proprietary organizations, and public

libraries, museums and vocational rehabilitation agencies. In fiscal year 1998, approximately 1000 school districts, 22 state education agencies, 233 post-secondary institutions and 2 state systems of higher education changed their policies or practices consistent with the advice provided by OCR. These changes will yield access to educational benefits for a countless number of students.

Thirdly, we measure the number of successful partnerships with parents that lead to civil rights compliance. If we are to succeed in ensuring access to high standards and excellence for all students, we must find proactive and innovative ways for involving and empowering parents. One such example of successful partnership with parents is a proactive effort, initiated by OCR's New York office, to empower the parents of the 1.1 million students enrolled in New York Board of Education Schools. In FY 1999, the New York office began a partnership with several parent groups to provide training forums and workshops for parents throughout New York City. Events focus on underserved communities in a special effort to reach minority and LEP parents. OCR provided critical information about special education rights, minority students and special education, and English language learners and special education. Simultaneous translation equipment was used, which greatly facilitated communication with the approximately one-third of the parents who spoke Spanish. Meetings also were held with various advocacy groups in order to share information regarding the resolution agreements and memoranda of understanding between OCR and the Board and their impact on parents.

During the past four years, the Chicago Office has been engaged in an initiative designed to improve the effectiveness of OCR reviews focusing on language services for LEP students and thus enable these students to gain access to a high quality education. The initiative is premised on the belief that parental involvement is essential to achieving lasting positive changes within a school district.

OCR's traditional approach is to obtain a school district's written agreement to remedy any compliance problems identified during case resolution and then to monitor the district's compliance with the agreement over a specified period of time. Active involvement of parents concerned about their children's education can ensure that the positive actions implemented by a school district continue once OCR is no longer involved.

Finally, we are prompt. Eighty percent of complaints are resolved within 180 days of receipt by OCR. Even in the face of an increasing caseload and increased monitoring, we are meeting this goal.

In fact, GAO recently issued a Report Letter analyzing our complaint work. The report, titled "Resolving Discrimination Complaints Has Improved With New Processing System," is attached at the end of this testimony at Tab A. The GAO found that OCR has improved its complaint resolution process in two major ways. First, it replaced a process that investigated complaints with a more flexible system that focuses on resolving complaints as soon as possible. Also, OCR's hierarchical structure for investigating complaints was replaced with case resolution teams. Second, OCR improved or created several systems to provide its staff with

information needed to conduct and report on complaint investigations. For example, OCR has established internal networks around specific issue areas. The issue networks serve as an organizational bridge between OCR staff who are doing the same job and encountering the same questions across the country. The issue networks provide a forum for building knowledge and expertise around each issue area. They also serve to identify best practices, refine our case resolution tools and approaches, ensure consistency in applying legal standards and most importantly, the result is increased access to quality education for students. In addition, we have also focused on improving existing processes to maximize efficiency and effectiveness. For example, OCR has put increased emphasis and focus on the monitoring of resolution agreement. Our most well crafted resolution agreements will do little good unless we monitor their implementation to ensure that students in fact have received educational benefits. The GAO report concludes: “During the fiscal year 1993-1997 period, OCR showed improvement in three principal performance indicators: the time to process a complaint, the number of complaints processed annually, and average backlog of unprocessed complaints at year end.”

There is no doubt that our internal culture, our fundamental approach to case resolution, has changed. We realize we cannot prevent and eliminate discrimination on our own. We must work with a variety of stakeholders to accomplish our mission - to prevent as well as to correct violations of the law. OCR places high emphasis on collaboration to achieve results that Cooperation and communication among people with mutual interests – students, parents, community groups, state education agencies, and schools and colleges -- is the key to our continued success. It is because of this

emphasis on collaboration that OCR has been so effective in obtaining voluntary resolution agreements to correct violations without having to resort to the ultimate remedy of fund termination.

Preventing discrimination from ever happening can only be accomplished by providing educators, parents and students with information about their legal obligations and rights. Technical assistance is provided by both OCR's enforcement offices and headquarters staff, which includes a customer service team operating as the first point of contact through its 800-telephone line. OCR also serves the public through its web page.

QUESTIONS PRESENTED

I appreciate the opportunity to address your questions regarding educational testing, gender equity in intercollegiate athletics, and meaningful access to educational opportunity for LEP students. Our policy guidance, compliance activities, and collaborative efforts in these three areas exemplify the aspects of partnership and collaboration that I mentioned earlier in my testimony. In addition, our work in these three areas illustrates how OCR's efforts are not only consistent with, but also serve to advance the broader educational policies of the Administration, Congress, and the states, as well as the wishes and hopes of our nation's parents and students.

I. Educational Testing

OCR's approach to educational testing is derived from existing statutory authority and, like the Administration's policy, is consistent with broader educational policies.

OCR recognizes that tests are critical components of educational strategies designed to promote excellence for all students. OCR's resolutions of claims of discrimination recognize most clearly that the solution to concerns regarding discrimination is not to eliminate the very tools that help provide a meaningful picture of the educational opportunities provided to students. Rather, OCR's approach is to provide guidance to policy makers and educators to ensure that tests are used in ways that are consistent with the civil rights laws. That is, that they are used in ways that provide valid and reliable information and are consistent with their design and purpose.

The improper use of a high-stakes test can violate civil rights laws that prohibit discrimination against students on the basis of their race, national origin, sex or disability. When tests are used to make educational decisions, they should be used to measure students' abilities, knowledge, or qualifications regardless of race, national origin, sex or disability.

As this Administration encourages more states and districts to adopt accountability systems which include on assessments to improve the performance of students and promote high standards, OCR's has the increased responsibility to help states and districts avoid legal problems. Accordingly, OCR 's draft Testing Resource Guide was developed in response to a need for guidance, especially at the elementary and secondary level. The draft guide is designed to combine, in one document, a description of existing legal and test measurement principles to assist policy makers and educators in making important decisions about when and how to use tests for making educational decisions that have significant

consequences for students. As the draft Testing Resource Guide points out, test use cannot be examined in a vacuum. In addressing the issue of whether a test has been used in a discriminatory manner, the draft Testing Resource Guide describes long-standing law and education practices relevant to the classification of students and the provision of benefits or services is at issue. The foundations for OCR's approach in addressing discriminatory use of educational tests as illustrated most recently in the draft Testing Resource Guide, is that legal standards must be informed by both professional psychometric standards as well as sound educational judgement.

OCR has developed a process for obtaining wide input on the draft Testing Resource Guide. We have consulted with over thirty teacher, administrator, policy maker, business, advocacy, and test publisher organizations to solicit input on the draft Testing Resource Guide. Once the draft Resource Guide has been refined in light of their comments, OCR will recirculate the draft Resource Guide to those same groups just prior to our submission of the document to the National Academy of Sciences Board on Testing and Assessment, for their final review. Thereafter, we anticipate making a draft available to the public for review.

OCR's legal approach to discriminatory use of educational tests is consistent with the broader objectives of educational reform. Educational reform recognizes that all students need an educational system that both expects high performance and offers real and meaningful educational opportunities. Nondiscrimination in testing and assessment is essential to ensuring that equal opportunities for educational excellence are provided regardless of race, national origin, sex, or disability.

The effect of OCR's activities in the area of educational testing is to ensure real educational benefits for real students.

OCR has investigated many cases that allege discrimination in the use of tests. At times, our resolutions have focused on states' obligations to ensure that all students are provided the instruction necessary to meet a high-stakes test, such as a statewide proficiency test. In those cases, our agreements have required states to use their accountability systems to ensure that school districts provide the instruction necessary, including remedial or summer school programs, to give all students the opportunity to meet the statewide standards. For example, OCR and the state of Texas have been working together to resolve a complaint alleging that the use of the Texas Assessment of Academic Skills (TAAS) was discriminatory on the basis of race and national origin. Our case resolution in Texas maintained the use of the TAAS. The agreement focuses on the State's efforts to provide appropriate interventions and instruction in order to improve the passage rates of minority students on the TAAS.

Our case resolutions have focused also on the use of an IQ test as the sole criterion or gatekeeper for access into gifted and talented programs but where the test was not intended by experts to be used in such a way. In those instances, OCR worked with states, districts and schools to find additional methods for identifying gifted students, such as portfolios of work, grade point averages, teacher recommendations, and achievement test data, while ensuring that the rigorous nature of the underlying program was left intact.

II. Gender Equity in Intercollegiate Athletics

OCR's policy on gender equity in intercollegiate athletics is derived from existing statutory authority and is consistent with the broader education policies of the Administration.

OCR is responsible for enforcing Title IX of the Education Amendments of 1972, which prohibits discrimination based on sex in education programs receiving federal financial assistance. Athletics are considered an integral part of an institution's program and are therefore specifically covered by OCR's regulations implementing Title IX. In order to clarify the athletic requirements contained in the Title IX regulation, a Policy Interpretation was issued in 1979 to provide colleges and universities with more guidance on how to comply with the law. Although the Policy Interpretation was written specifically for intercollegiate athletics, its general principles will often apply to club, intramural, and interscholastic athletic programs.

Several years ago, I convened a number of focus groups to discuss discrimination in athletics, and in January 16, 1996, I issued a detailed guidance document on the subject of equitable participation opportunities, entitled "Clarification of Intercollegiate Athletics Policy Guidance: The Three-Part Test" (The Clarification). This Clarification addresses the interpretation of what is commonly referred to as the "three-part test." This test, as described in the Department's 1979 Athletic Policy Interpretation, is used to determine whether students of both sexes are provided nondiscriminatory opportunities to participate in athletics. The Clarification makes clear that no quotas would be permitted. Further, we emphasize that

there are three separate avenues whereby a school may comply with the requirement to provide nondiscriminatory participation opportunities for individuals of both sexes. A college or school may comply by meeting any of the three avenues: 1) substantial proportionality; 2) a history and continuing practice of program expansion; or, 3) full and effective accommodation of interests and abilities. This compliance standard is part of a larger analytical framework discussed in the 1979 Policy Interpretation, which has received the bipartisan support of Congress over the years. Finally, OCR encouraged colleges to avoid cutting of men's sports as a means for coming into compliance with the participation test.

In July 1998, OCR issued two letters that discussed and clarified the 1979 Policy Interpretation as it relates to the funding of athletic scholarships for men's and women's intercollegiate athletic programs. The letters, intended for all schools that award scholarships in intercollegiate athletics programs, clarify how scholarship dollars must be awarded to men's and women's athletic programs in "substantially equal amounts," proportionate to the participation rate of male and female athletes. Wide dissemination of these letters and posting them on OCR's website will help ensure that intercollegiate athletic scholarships are awarded with an understanding of the requirements and will promote fairer distribution of scholarship funds.

During the 1996-97 academic year, more than 329,000 student-athletes (200,627 men and 128,209 women) participated in intercollegiate athletics at National Collegiate Athletic Association institutions. According to NCAA's own data, this figure represents the highest number of total student/athletes ever.

More than 25 years after the passage of Title IX, women college athletes receive fewer athletic opportunities and support from their institutions. Although men athletes represent about 60% of the student-athletes nationwide, they receive more than 76% of college sports operating budgets, more than 82% of college recruiting money, and about 72% of athletic scholarships. Women athletes annually receive about \$180 million less than men athletes in scholarship money.

It is indisputable that athletic opportunities also represent opportunities for access to higher education. Access to higher education is a priority of this Administration. Therefore, increasing access to higher educational opportunities for more of America's students, men and women, by eliminating gender discrimination in intercollegiate athletics, is certainly consistent with the Administration's goals and policies.

The effect of OCR's activities in the area of gender equity in intercollegiate athletics is to yield real education benefits for real students.

OCR's compliance efforts in this area have certainly yielded positive results with respect to access to educational benefits for all students, regardless of sex. For example, OCR entered into an agreement with a large midwestern university that resulted in the university's decision to elevate three of its existing women's club teams to the intercollegiate level. Upon full implementation of the resolution agreement, the university will have increased the number of women participating in its intercollegiate athletics

program by as much as 40% without cutting any men's teams. This type of resolution is consistent with Title IX, which does not require the elimination of teams but rather requires equal opportunity.

OCR resolutions of cases alleging gender discrimination in the award of athletic financial assistance also have yielded positive results that will increase access to educational opportunities for hundreds of students. In fact, in 16 out of the 25 complaints filed by the National Women's Law Center this past year, OCR has obtained resolution agreements that will result in hundreds of thousands of scholarship dollars being made available for women athletes who previously have been denied those monetary benefits.

III. Meaningful Access to Educational Opportunity for Limited-English Proficient (LEP) Students

You have requested information about OCR's policy relative to "bilingual education." Pursuant to Title VI of the Civil Rights Act, OCR has jurisdiction over issues involving access to educational opportunities for language minority LEP students. OCR does not, however, enforce any law, regulation or policy that specifically requires, prohibits or encourages the use of bilingual education programs. As I explain later in my response to your questions, bilingual education is one of several programs a school district could chose to implement to fulfill its obligation under Title VI.

OCR Policy Guidance on Access to Educational Opportunity for LEP Students is derived from existing statutory authority and, like the broader

education policies of the Administration, is consistent with sound educational practice.

OCR is responsible for enforcing Title VI of the Civil Rights Act of 1964, which prohibits discrimination based on race, color or national origin. In *Lau v. Nichols*, the Supreme Court affirmed the Department of Education Memorandum of May 25, 1970, that directed school districts to take steps to help LEP students overcome language barriers and to ensure that they can participate meaningfully in the district's educational programs.

Neither Title VI nor OCR requires or advocates a particular program of instruction for LEP students. However, federal law does require that programs to educate children with limited English proficiency be: based on sound educational theory; adequately supported so that the program has a realistic chance of success (with adequate and effective staff and resources); and periodically evaluated and revised, if necessary. These requirements are set forth in long-standing OCR policy which is based on the analytical framework formulated by the Fifth Circuit in the landmark case of *Castaneda v. Pickard*. Both the *Lau* and *Castaneda* cases support OCR policy that provides schools districts with flexibility in selecting educational program models that meet Title VI obligations.

Other areas addressed by OCR policy¹ include investigative guidance for determining whether a school district is meeting its Title VI obligation to:

¹ OCR policy regarding LEP students are reflected in three documents: The May 1970 memorandum to school districts, "Identification of Discrimination and Denial of Services on the Basis of National Origin;" the December 3, 1985

identify and evaluate students who may be in need of English language services; to monitor and appropriately address the needs of those students relative to whether they are in fact learning English as well as how they are performing academically; ensure that qualified teachers and appropriate resources are being provided to support the success of the program model it has chosen; and exit students from the alternative language program once they are proficient enough in English to participate meaningfully in the regular program. In addition, where the district has chosen to temporarily emphasize language instruction over academic instruction, districts must follow up to ensure that students are provided with compensatory and supplemental education to address the deficiencies in other content areas that may have occurred during this period. All of these areas of compliance with Title VI as identified in OCR policy documents are informed by longstanding Federal case law.

OCR policy on access to educational opportunity for LEP students is consistent with sound education policies. OCR policy requires that districts provide LEP students meaningful access to the educational program, including district programs that emphasize high standards. OCR policy, clearly supported by Federal case law, provides great flexibility to districts regarding how they will fulfill that obligation. The Administration's broader educational policy is in fact to support innovative and high quality

guidance document, "The Office for Civil Rights' Title VI Language Minority Compliance Procedures;" and the September 1991 memorandum, "Policy Update on Schools' Obligations Toward National Origin Minority Students with Limited-English Proficiency (LEP)."

educational programs designed to raise academic standards so that *all* of our nation's students may reach their fullest potential and be equipped to meet the global economic and social challenges of the next millennium.

The effect of OCR policy and compliance efforts on the issue of access to educational opportunity for LEP students ensures real educational benefits for real students.

What are the consequences when schools do not provide LEP students with services to address their lack of proficiency in English? They are consequences we cannot afford as a nation: exclusion of LEP students from the educational program; repeated failure in the classroom, falling behind in grade, and dropping out of school; inappropriate placement of LEP students in special education classes; as well as, foreclosed access to high track courses, gifted and talented programs and finally, exclusion from our national high standards education reform efforts.

OCR's work in this area has had a profound impact on millions of student's ability to access a meaningful education. For example, in 1993 OCR initiated a compliance review of the Farmington Public Schools in Michigan regarding whether the district was providing access to meaningful participation in the district's educational program to limited English proficient students. As a result of the review, the District developed a plan to promote equity and excellence in the District's education program for LEP students. The implementation of the agreement has increased the English language proficiency of LEP students and LEP students have made significant academic gains. In fact, LEP students are beginning to close the

gap between their overall performance and the performance of non-LEP students.

Another example of the positive effects of OCR policy and compliance efforts are the results accomplished through our work with the Adams County School District #50 in Colorado. To meet its Title VI obligations, the District selected a program that is structured to focus on increasing English language proficiency. The program encompasses the core content curriculum and has allowed LEP students to participate and progress in the District's educational program. Because of our collaborative efforts with the district, LEP students are closing the gap between their overall performance and the performance of non-LEP students. Former LEP students raised their academic performance as a result of OCR's assistance, whether the measure of success consists of standardized test results, or improved graduation rates, or reduced drop out rates. Most promising, the graduation rate for former LEP students was 100% -- truly a remarkable achievement.

CONCLUSION

Thank you for the opportunity to share with you information about OCR's efforts to provide equal access to educational opportunity for all students. I would be pleased to respond to any questions you may have.

The Dingell-Hyde-McCollum Gun Shows Legislation

June 18, 1999

Last night, instead of closing the deadly gun show loophole, the House of Representatives voted to let criminals keep buying guns at gun shows. By the light of day, most Americans will wonder why the House simply did not pass the same common-sense measures as the Senate. Although nearly 80 percent of House Democrats voted to close the gun show loophole, over 80 percent of House Republicans supported the gun lobby's phony reforms, including:

- *A narrow definition of gun shows.* The House bill narrows the definition of "gun show," allowing flea markets -- where hundreds of guns are regularly bought and sold -- to continue to operate without having to do background checks. On the other hand, the Senate bill covers any transaction between 2 or more people that involves 50 or more firearms.
- *Parking lot sales.* The House bill's background check requirement only applies to offers that are "accepted" at gun shows, creating a new loophole for sales that originate -- but that are not completed -- at gun shows. The Senate bill's background check requirement applies to any gun "offered" for sale at a gun show.
- *Abbreviated Brady background checks.* The House bill reduces the amount of time law enforcement has to complete a Brady background check at gun shows. Although more than 70 percent of background checks are completed within minutes, and nearly 95 percent within a 2-hour period, the remaining 5 percent take longer for a reason: they are much more likely to turn up a problem and result in a denial. If the 24-hour time limit imposed by the House bill were applied to the Brady background checks we do now, the FBI estimates that 17,000 prohibited persons would have been able to buy guns over the past six months -- or about 40 percent of the total denials during that period. The Senate bill preserves law enforcement's ability to take up to 3 business days to complete a check if necessary.
- *Safe harbor for criminals.* The House bill undermines law enforcement efforts to trace guns that are later used in crime. It creates a new class of "instant check registrants" to do background checks at gun shows that do not have to keep the same records as federal gun dealers, and who do not have to cooperate fully with law enforcement authorities -- or risk losing their license. Under the House bill, criminals will know that guns bought and sold at gun shows will continue to be untraceable by law enforcement. The Senate bill simply applies the same rules that apply to all federal gun dealers to all gun show sales.
- *Interstate gun sales.* The House bill sets aside the 30-year prohibition in our gun laws that prohibits gun dealers from selling guns to private persons across state lines, and undermines the ability of states to control the flow of guns across their borders. The Senate bill does not tamper with our gun laws.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Oscar Gonzalez (CN=Oscar Gonzalez/OU=OMB/O=EOP [UNKNOWN])

CREATION DATE/TIME:18-JUN-1999 11:04:37.00

SUBJECT: LRM OGG25 - - LABOR Report on HR987 Workplace Preservation Act

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

TO: Melissa N. Benton (CN=Melissa N. Benton/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

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

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

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

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

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

TEXT:

Please provide comments to

NOTE TO EOP STAFF: You will not be receiving a hard copy of this document.

----- Forwarded by Oscar Gonzalez/OMB/EOP on 06/18/99

10:56 AM -----

LRM ID: OGG25

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

Friday, June 18, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution
below

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

OMB CONTACT: Oscar Gonzalez
PHONE: (202)395-7754 FAX: (202)395-6148
SUBJECT: LABOR Report on HR987 Workplace Preservation Act

DEADLINE: noon Monday, June 21, 1999
In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: Attached is a Labor letter on HR 987 to be released on Tuesday, June 22nd, prior to a possible markup of the bill on Wednesday, June 23rd, by the House Committee on Education and Workforce. The letter is almost identical to a previous Labor letter dated May 19th (See LRM ID: MNB73). Due to the short deadline, your immediate attention is appreciated.

DISTRIBUTION LIST

AGENCIES:

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61-JUSTICE - Jon P. Jennings - (202) 514-2141
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107-Small Business Administration - Mary Kristine Swedin - (202) 205-6700
52-HEALTH & HUMAN SERVICES - Sondra S. Wallace - (202) 690-7760

EOP:

Barbara Chow
Iratha H. Waters
Barry White
Larry R. Matlack
Melissa Benton
Karen Tramontano
Elena Kagan
Broderick Johnson
Stuart Shapiro
Daniel J. Chenok
Barry T. Clendenin
Richard J. Turman
Frank J. Seidl III
Melany Nakagiri
Mark E. Miller
Robert G. Damus
Peter Rundlet
Randolph M. Lyon
Sarah S. Lee
Sandra Yamin
Brian V. Kennedy
Courtney B. Timberlake
Yvette M. Dennis
Janet R. Forsgren
James J. Jukes
Stephen G. Elmore
LRM ID: OGG25 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.

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- (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: Oscar Gonzalez Phone: 395-7754 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 age

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Oscar Gonzalez (CN=Oscar Gonzalez/OU=OMB/O=EOP [UNKNOWN])

CREATION DATE/TIME:18-JUN-1999 11:11:02.00

SUBJECT: LRM OGG25 - - LABOR Report on HR987 Workplace Preservation Act

TO: Stephen G. Elmore (CN=Stephen G. Elmore/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: Courtney B. Timberlake (CN=Courtney B. Timberlake/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])
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TO: Robert G. Damus (CN=Robert G. Damus/OU=OMB/O=EOP@EOP [OMB])
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TO: Melany Nakagiri (CN=Melany Nakagiri/OU=OMB/O=EOP@EOP [OMB])
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TO: Richard J. Turman (CN=Richard J. Turman/OU=OMB/O=EOP@EOP [OMB])
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TO: Daniel J. Chenok (CN=Daniel J. Chenok/OU=OMB/O=EOP@EOP [OMB])
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TO: Broderick Johnson (CN=Broderick Johnson/OU=WHO/O=EOP@EOP [WHO])
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TO: Karen Tramontano (CN=Karen Tramontano/OU=WHO/O=EOP@EOP [WHO])
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TO: Larry R. Matlack (CN=Larry R. Matlack/OU=OMB/O=EOP@EOP [OMB])
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TO: Iratha H. Waters (CN=Iratha H. Waters/OU=OMB/O=EOP@EOP [OMB])
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TO: James J. Jukes (CN=James J. Jukes/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

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

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

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

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

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

TEXT:
Sorry for the mix-up.

Please provide comments to me by noon on Monday, June 21

NOTE TO EOP STAFF: You will not be receiving a hard copy of this document.

----- Forwarded by Oscar Gonzalez/OMB/EOP on 06/18/99

11:06 AM -----

LRM 1D: OGG25
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, June 18, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution
below

FROM: Janet R. Forsgren (for) Assistant Director for
Legislative Reference
OMB CONTACT: Oscar Gonzalez
PHONE: (202)395-7754 FAX: (202)395-6148
SUBJECT: LABOR Report on HR987 Workplace Preservation Act

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MEMORANDUM

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- (2) sending us a memo or letter

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

TO: Oscar Gonzalez Phone: 395-7754 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

- Hr987mk2.wpd
 - Attachb.wpd===== ATTACHMENT 1 =====
 ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:
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 The following is a HEX DUMP:

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 F7C9DCA3239720AB100193B4E1661F96A07601AD425FC378BE96D794F887D1C595FC3DDC6F986D

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

Dear Chairman Goodling:

I am writing to inform you of the views of the Department of Labor regarding H.R. 987, the "Workplace Preservation Act." I understand that the Committee is considering marking up this bill. The Department strongly opposes H.R. 987, and I would recommend that the President veto this legislation if it were presented to him for signature.

H.R. 987 would delay the Occupational Safety and Health Administration's (OSHA) issuance of a protective standard on ergonomics until the National Academy of Sciences (NAS) has completed a second 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 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 Fiscal Year 1999 Omnibus Appropriations Act, Congress and the Administration agreed that the Department would proceed with promulgation of its ergonomics rule while the NAS conducted its study. Some argue that the funding of an additional NAS study indicates an intent on the part of the President and the Congress to delay OSHA's rulemaking until NAS has finished its work. A letter from the two principal House negotiators on last year's Omnibus Appropriations Act, Rep. Robert Livingston and Rep. David Obey (see Attachment A), explicitly rejects such an intent. In addition, the President's chief negotiator, White House Chief of Staff John Podesta, affirms that the NAS study was funded only after the Administration made clear that OSHA would proceed with the ergonomics rule and would not wait for the study to be completed.

H.R. 987 would undermine this agreement by forcing OSHA to wait another 18 months to two years before issuing a standard, in the expectation that the conclusions of a new NAS study will be different from those previously reached by NAS and the National Institute for Occupational Safety and Health (NIOSH). NAS last year completed a six month study commissioned by Congress. NIOSH completed an exhaustive survey 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 (see Attachment B).

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. Of course, OSHA will consider all comments in the record of the final rule, including any available results of the NAS study.

I urge the Committee to vote against H.R. 987.

The Office of Management and Budget has advised that enactment of H.R. 987 would not be in accord with the program of the President.

Sincerely,

Alexis M. Herman

Attachment B

1997 NIOSH study. The NIOSH study is the most comprehensive compilation and review of the epidemiologic research to date on the relation between MSDs and exposure to workplace risk factors. NIOSH first identified more than 2,000 epidemiological studies on Work-related MSD hazards. Of these, NIOSH selected more than 600 studies for detailed review based on well-accepted criteria including strength of association, consistency, temporality, and coherence of evidence. At least 27 peer reviewers examined the document, including epidemiologists and other scientists, physicians, ergonomists, engineers, industrial hygienists, employers and employee representatives. Based on this critical review of the scientific evidence, NIOSH concluded that a substantial body of credible epidemiologic research provides strong evidence of an association between MSDs and work-related physical factors, particularly when there are high levels of exposure and especially in combination with exposure to more than one physical factor in the workplace (e.g., high repetition and high force, high force and awkward postures).

1998 NAS study. The National Academy of Science study also reviewed the same body of evidence that NIOSH reviewed. In addition, the NAS study supplemented this evidence with five commissioned papers, including reviews of biomechanical, pathophysiologic, control intervention studies. This six-month review of the evidence by the steering committee and 66 leading scientists culminated in a two-day workshop involving presentation of the commissioned papers, oral and written presentations by other invited scientists, panel discussions among those scientists, and submission of other data and evidence by them. The 10-member steering committee prepared the report of the study based on all of this evidence and testimony. The report was then peer-reviewed by an additional 10 scientists before it was released. (The steering committee, workshop presenters and panelists, and the reviewers of the report each included experts in orthopedic surgery, occupational medicine, epidemiology, ergonomics, human factors, statistics, and risk analysis). The NAS study reached the same conclusion as the NIOSH study--there is a strong relationship between exposure to workplace risk factors and the incidence of WMSDs. The NAS study went one step farther than the NIOSH study in concluding that research clearly demonstrates that specific interventions can reduce the reported rate of WMSDs for employees who perform high risk tasks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-JUN-1999 19:25:09.00

SUBJECT: 10:30AM MONDAY DEADLINE -- FINAL CLEARANCE -- Draft SAP H.R. 1906 on Ag/Ru

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

CC: Courtney O. Gregoire (CN=Courtney O. Gregoire/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

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

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

CC: Scott R. Hynes (CN=Scott R. Hynes/O=OVP@OVP [UNKNOWN])
READ:UNKNOWN

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

CC: Mara E. Rudman (CN=Mara E. Rudman/OU=NSC/O=EOP@EOP [UNKNOWN])
READ:UNKNOWN

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

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

TEXT:

Attached for your clearance is a final draft Senate floor SAP on the H.R. 1906 Ag/Rural Development Approps Bill FY00. The Seante is scheduled to consider H.R. 1906 on Monday, June 21. Please provide sign-off and/or comments no later than 10:30AM Monday morning. Thank you!

Please note that Jack Lew has not had the opportunity to review this draft.

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D29]ARMS29260677Y.136 to ASCII,
The following is a HEX DUMP:

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41E6761305B8881888F7FD498ED37F3255C3B50580A1ED2118E5936DC111D03C9BEA4534F3FB75
FFC16BC1987B1D5FB8CF5A8D7E5181A945518AEBDD1C926194E52AC129C94BEF076406A220C211

June __, 1999
(Senate Floor)

**H.R. 1906 -- AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG
ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS BILL, FY 2000**
(Sponsor: Stevens (R), Alaska; Cochran (R) Mississippi)

This Statement of Administration Policy provides the Administration's views on the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Bill, FY 2000, as reported by the Senate Committee. As the Senate develops its version of the bill, your consideration of the Administration's views would be appreciated.

The allocation of discretionary resources available to the Senate 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 meet such needs while conforming to the Bipartisan Budget Agreement by making savings proposals in mandatory and other programs available to help finance this spending. Congress has approved, and the President has signed into law, nearly \$29 billion of such offsets in appropriations legislation since 1995. The Administration urges the Congress to consider such proposals as the FY 2000 appropriations process moves forward.

The Administration appreciates efforts by the Committee to accommodate certain of the President's priorities within the 302(b) allocation. However, the Committee bill is over \$500 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 Senate to consider the over \$600 million in user fees proposed in the FY 2000 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 the Administration's concerns with the Committee bill.

Food and Drug Administration

While the Administration is pleased that the Committee has provided a \$62 million increase over the FY 1999 enacted level for the Food and Drug Administration (FDA), we are disappointed that the Committee did not fund the full request for the FDA, including important youth tobacco prevention activities and the proposed seafood inspection program transfer.

The Administration is concerned that the Committee's reduction of \$56 million from the President's request for non-foods/tobacco FDA activities would jeopardize the FDA's ability to improve the public health infrastructure through enhanced product safety assurance and injury reporting systems. The Administration is also concerned about the Committee's reduction to the FDA building and facilities account, which would delay the completion of FDA field lab consolidation and replacement. The Committee bill does not include the \$20 million requested for the replacement of the outdated Los Angeles regional lab, or the \$3 million needed to continue work on the Arkansas regional lab. The Administration urges the Senate to fund these activities at the President's requested level.

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. This is particularly important in light of the recent decision of the conferees on the FY 1999 Emergency Supplemental Appropriations Act to permit States to retain the entire amount secured from tobacco companies without any commitment whatsoever from the States that those funds be used to reduce youth smoking. To help discourage youth smoking, we urge the Congress to consider the Administration's proposal to increase tobacco taxes.

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

Food Safety Initiative

The Administration appreciates the Committee's support for the President's Food Safety Initiative (FSI) through increases above the FY 1999 enacted and House bill levels provided to the Department of Agriculture (USDA). We are also encouraged by the increase above enacted that the Committee has provided to FDA for FSI activities. Nonetheless, we are concerned that the Committee has provided only \$46 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 also provide critical resources to expand USDA's and FDA's food safety research, risk assessment, and other capabilities. We strongly urge the Senate to provide full funding at the requested levels for these activities and consider the Administration's proposal to charge user fees for Federal meat and poultry inspection services in support of a safe food supply.

Women, Infants, and Children Program

The Administration strongly supports the Committee's \$30 million increase for WIC over the House level. The Committee mark would sustain a participation level of 7.4 million in FY 2000. We remain concerned that even this funding level will be insufficient to support the projected participation level of 7.5 million, thereby not achieving our longstanding goal of full participation.

Common Computing Environment

Automated Records Management System
Hex-Dump Conversion

The Administration is very concerned by the Committee's decision not to fund the Common Computing Environment, either directly through the Support Service Bureau, as requested in the President's budget, or by providing additional funds to the county-office agency salaries and expense accounts. Some in Congress have criticized 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, and for long waiting periods some farmers and rural residents have faced in receiving other assistance through USDA county offices. Yet this bill would not provide the funds needed to address the very problems that contributed to the delays. At a time when the farm community is under financial stress and the demand for farm credit and other programs is high, the need for timely and efficient service to producers and rural residents has never been greater. Without the proposed \$74 million in funding, it will not be possible 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.

Conservation and Environmental Programs

The Committee bill appears to cut spending on key USDA conservation programs by at least \$140 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 voluntary conservation measures critical to protecting our natural resources. To advance this important work further, including addressing the significant backlog of farmers' requests for aid, the Administration requested a \$100 million increase in the EQIP program as part of its Clean Water Action Plan. The combination of the EQIP reduction and the Committee's failure to fully fund the request of additional technical assistance to animal feeding operations could damage livestock owners' progress toward ensuring that their operations are environmentally sound and community-friendly.

Other valuable environmental programs would be severely underfunded by the Committee bill, and we urge the Senate to restore funding for them. The Committee has failed to fund the \$50 million discretionary portion of the Administration's request for the Farmland Protection Program, which is part of the Administration's Lands Legacy Initiative. America's farmers need these funds to help them stay on their land, through easements that permanently protect 80,000 acres of prime farmland from development. We urge the Senate to provide the \$50 million in discretionary funds requested for the program and redirect its 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.

In addition, the Committee has not provided the \$12 million requested in the Conservation Operations account to assess the effects of soil management on carbon sequestration, and \$5 million for USDA's initiative to help communities make use of geospatial data to make more informed land use decisions and promote smart growth. The Administration recommends that funds be redirected to these high-priority activities, such as by eliminating the Forestry Incentives Program as requested and as provided for by the House bill.

Outreach for Socially Disadvantaged Farmers

The Committee 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 in which it now operates, to further these farmers' equal access and their opportunity for success, and to continue USDA's work to improve its civil rights performance.

Research

The Committee bill would fund USDA's National Research Initiative at \$81 million below the request of \$200 million, while providing funding for a large number of unrequested, earmarked research grants. We urge the Senate to increase the funding for competitive research grants and to reduce earmarks for lower-priority programs.

Rural Development

The Administration appreciates the Committee's support for priority USDA rural development programs, such as water and wastewater loans and grants, Business and Industry guaranteed loans, and rental assistance for very-low income rural residents. The Administration is concerned, however, that the Committee bill's funding for Rural Development salaries and expenses would jeopardize effective implementation of these programs. The \$25 million, or five percent, reduction from the requested salaries and expenses funding could require Rural Development to eliminate over 400, or six percent, of its staff through a reduction-in-force. We urge the Senate to provide the requested level of funding to ensure an adequate delivery system for these vital programs for rural America.

In addition, the Committee bill's provisions for the Rural Community Advancement Program (RCAP) do not provide the full funding flexibility authorized for the program in the 1996 Farm Bill that was requested by the Administration and included in the House bill. The flexibility to shift funds among programs can better ensure that Federal funds can be adapted to unique local economic and community development needs, and we urge the Senate to lift this limitation.

Commodity Futures Trading Commission

The Administration is disappointed that the Committee mark reduces funding for the Commodities Futures Trading Commission (CFTC) by \$7 million, or 11 percent, from the President's request. This will result in a hiring freeze, difficulty in meeting workload demands, and possible layoffs. We urge the Senate to restore funding so that the CFTC will have staffing sufficient to maintain oversight and integrity of trading on futures exchanges.

Amendment to Non-Immigrant Farm Worker Program

The Administration strongly opposes the provision of the McConnell amendment to the non-immigrant farm worker program adopted by the Committee that would adversely affect the recruitment of legal U.S. farm workers. The first part of this amendment would shorten the time before work begins that an employer must apply for using foreign workers from 60 to 45 days. While this is not objectionable, it is unnecessary because this is part of a Department of Labor regulation that will be published in the Federal Register by the end of the month. The second part would increase from 20 to 30 days from the first day of work the time by which the Department of Labor (DOL) must issue its certification of the number of jobs that may be filled with guest workers. This provision is objectionable because it has the effect of substantially shortening the recruitment period for legal U.S. farm workers down to only 3-8 days. This is not long enough to recruit legal U.S. workers fairly and properly, and does not allow for proper certification checks on incoming foreign workers.

Food and Nutrition Service Research

The Administration strongly objects to any provision of the Committee bill that would prohibit the use of Food and Nutrition Service (FNS) funds for research and evaluations on nutrition programs. To address program integrity and performance issues properly, it is crucial that research on nutrition programs also occur in the context of the programs' administration. We urge the Senate to provide funding for these activities within FNS.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Oscar Gonzalez (CN=Oscar Gonzalez/OU=OMB/O=EOP [UNKNOWN])

CREATION DATE/TIME:21-JUN-1999 11:50:04.00

SUBJECT: REMINDER on LRM OGG25 - - LABOR Report on HR987 Workplace Preservation Act

TO: Stephen G. Elmore (CN=Stephen G. Elmore/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: Courtney B. Timberlake (CN=Courtney B. Timberlake/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: Melany Nakagiri (CN=Melany Nakagiri/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: 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: Yvette M. Dennis (CN=Yvette M. Dennis/OU=OMB/O=EOP@EOP [OMB])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: 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: 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: Melissa N. Benton (CN=Melissa N. Benton/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

TEXT:

This is a reminder that your comments on the Labor testimony on LRM OGG25
- - LABOR Report on HR987 Workplace Preservation Act are due at
noon today. If you've already responded, please disregard this message.
If you have not, please provide any comments to me ASAP. If I don't hear
from you, I'll assume you have no objections to the testimony in its
current form.

Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:21-JUN-1999 12:28:39.00

SUBJECT: Justice testimony on HR 1304

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

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

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

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

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

TEXT:

On Friday, I circulated to you for review and comment testimony from Joel Klein for a hearing tomorrow morning before the House Judiciary Committee on legislation that would create an antitrust exemption for certain physicians. JUSTICE strongly opposes the legislation. Also, the FTC has publicly opposed this legislation.

Justice is anxious to get its statement to the Committee - please give me your comments/signoff by no later than 3:00 p.m. today. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:21-JUN-1999 13:52:59.00

SUBJECT: RLPA

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

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

TEXT:

The House Judiciary Committee will mark up RLPA this Wednesday. Nadler will offer his amendment to limit the bill to small landlords (in the case of housing laws) and small employers (in the case of employment laws. His amendment will probably fail and the bill will probably be reported out, both by voice votes. Canady says he has a commitment for floor time so we can expect a bill on the floor fairly soon. At that point, Nadler may offer his amendment again if the Rules Committee lets him. The prospects in the Senate are unclear. Hatch has not yet introduced a bill. He hold an "informational" hearing this Wednesday.

It seems unlikely that the religious coalition and the bill's opponents will reach some compromise, at least in the near future. We could try to get them in the same room and get very involved in attempting to broker something, but I don't think either side has an incentive to agree to anything. That dynamic may change when the bill reaches the Senate. In the meantime, I think we need to meet to discuss the Administration's response to the bill and the Nadler amendment.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Oscar Gonzalez (CN=Oscar Gonzalez/OU=OMB/O=EOP [UNKNOWN])

CREATION DATE/TIME:21-JUN-1999 18:41:52.00

SUBJECT: LRM OGG28 - - LABOR Report on HR1381 Rewarding Performance in Compensation

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

TO: Brian V. Kennedy (CN=Brian V. Kennedy/OU=OPD/O=EOP@EOP [OPD])
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: Darrell Park (CN=Darrell Park/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

TO: 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: 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

LRM COMMERCE (LRM COMMERCE [UNKNOWN])

READ:UNKNOWN

LRM JUSTICE (LRM JUSTICE [UNKNOWN])

READ:UNKNOWN

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

READ:UNKNOWN

LRM TREASURY (LRM TREASURY [UNKNOWN])

READ:UNKNOWN

TEXT:

Following is LRM ID: OGG 28. Please read and respond to it by 1:00 p.m., tomorrow, Tuesday, June 22, 1999. The draft testimony on which we request your comments totals 2 pages and is attached at the end of this LRM.

Agencies: Please contact me if you do not receive this e-mailed LRM in good working form. For your convenience, we will follow this e-mail by sending a copy by fax.

EOP staff: You will not receive a paper copy of this LRM.

----- Forwarded by Oscar Gonzalez/OMB/EOP on 06/21/99

06:37 PM -----

LRM ID: OGG28

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Monday, June 21, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

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

OMB CONTACT: Oscar Gonzalez

PHONE: (202)395-7754 FAX: (202)395-6148

SUBJECT: LABOR Report on HR1381 Rewarding Performance in Compensation Act

DEADLINE: 1pm Tuesday, June 22, 1999

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

COMMENTS: Attached is a letter from Labor Secretary Herman on HR 1381 to be presented to the House Committee on Education and Workforce prior to a markup of the bill on Wednesday, June 23rd. The letter is nearly identical to a previous Labor letter dated May 19th (See LRM ID: MNB72). Be advised that, like the previous letter, this letter contains a veto threat. Due to the short deadline, your immediate attention is

appreciated.

DISTRIBUTION LIST

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- Brian V. Kennedy
- Sarah S. Lee
- Janet R. Forsgren
- James J. Jukes

LRM ID: OGG28 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: Oscar Gonzalez Phone: 395-7754 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

- FLSACOM4.WPD===== ATTACHMENT 1 =====
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D54]ARMS27991887Z.136 to ASCII,
The following is a HEX DUMP:

FF575043A1100000010A02010000000205000000CC1D000000020000C940DDB453CC753BA41601
E03676F68FD5C5B058A210CFD691ED54CF25FC46ADB335505E1F8386A9B53A7C5B9BDD41743DF8
81F1A20EA44591ACA4BB3CC920CEBB089F46DF5B13A609F51A1E2AE95F9A5B4F549A41F3387066

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

Dear Chairman Goodling:

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 regular rate is the basis for calculating overtime premium (time-and-a-half pay). As I previously advised Subcommittee Chairman Ballenger in my letter of May 19, 1999, the effect of this amendment would be to diminish employees' entitlements to overtime premium pay under the FLSA. Accordingly, if H.R. 1381 were presented to the President, I would recommend that he veto it.

This bill would substantially reverse the FLSA's long-standing overtime policy and drastically weaken existing protections for workers to receive true time-and-a-half overtime premium pay. Moreover, H.R. 1381 does nothing to guarantee that workers would ever share in their employers' gains 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 would be overtime at time-and-a-half of an artificially reduced hourly wage, not their true regular rate. This bill would encourage employers to have their employees work for longer hours at lower earnings, the opposite of the original intent of the FLSA's overtime standards--to limit the detrimental impact that long work hours can have on the health, efficiency and general well-being of workers.

This bill would 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 having employees work excessively long hours and ensure fair compensation to employees for the burdens of working extended hours for their employer. The Department of Labor strongly opposes H.R. 1381 because it is contrary to the best interests of the Nation's workers who would be affected by 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 President's program.

Sincerely,

Alexis M. Herman

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: MaryEllen C. McGuire (CN=MaryEllen C. McGuire/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME:22-JUN-1999 09:20:07.00

SUBJECT: AmeriCorps Meeting

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

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

CC: Twest@cns.gov (Twest@cns.gov @ inet [UNKNOWN])
READ:UNKNOWN

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

CC: Cathy R. Mays (CN=Cathy R. Mays/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:

We will be holding an AmeriCorps meeting next Monday, June 28th at 4pm in
OEOB Room 100.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:22-JUN-1999 11:29:01.00

SUBJECT: FOR CLEARANCE -- Final Draft SAP -- H.J.Res. 33 - Constitutional Amendment

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

CC: Courtney O. Gregoire (CN=Courtney O. Gregoire/OU=OPD/O=EOP@EOP [OPD])

READ:UNKNOWN

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

READ:UNKNOWN

CC: Douglas Pitkin (CN=Douglas Pitkin/OU=OMB/O=EOP@EOP [OMB])

READ:UNKNOWN

TEXT:

Attached for your sign-off is the final draft SAP on H.J.Res 33 - Constitutional Amendment Against Flag Desecration. This bill is scheduled for House floor action this week and could come to the floor as early as Wed. Appreciate your sign-off or comments by 3:00PM TODAY. Thank you!

DRAFT) NOT FOR RELEASE

June 22, 1999

(House)

H.J.Res. 33 - Constitutional Amendment Against Flag Desecration
(Cunningham (R) California and 279 cosponsors)

The President is deeply committed to protection of the United States flag and will continue to condemn those who show it any form of disrespect. The Administration believes, however, that efforts to limit the First Amendment to make a narrow exception for flag desecration are misguided. The Congress should be deeply reluctant to tamper with the First Amendment, which has never been amended since it was adopted more than 200

years ago.

* * * * *

(Do Not Distribute Outside Executive Office of the President)

This Statement of Administration Policy was developed by the Legislative Reference Division (Jones), in consultation with the Department of Justice (Sharp), TCJSD (Thompson), and BASD (Balis).

The Office of White House Counsel, White House Legislative Affairs, the Domestic Policy Council, and OMB GC did not respond to our request for comments on the draft SAP.

OMB/LA Clearance:

H.J.Res. 33 was ordered reported by the House Judiciary Committee by voice vote on May 26, 1999.

Administration Position to Date

The Administration has taken no position on H.J.Res. 33. However, in testimony before the Senate Judiciary Committee on April 20, 1999, the Justice Department expressed the Administration's opposition to S.J. Res. 14, the companion to H.J.Res. 33. In addition, the Administration opposed two identical proposals (H.J.Res. 54 and S.J.Res. 40) in the 105th Congress.

Summary of H.J.Res. 33

H.J.Res. 33 would propose a one-sentence amendment to the Constitution stating that "[t]he Congress shall have the power to prohibit the physical desecration of the flag of the United States."

Pay-As-You-Go Scoring

According to BASD (Balis), H.J.Res. 33 is not subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act.

LEGISLATIVE REFERENCE DIVISION
June 22, 1999 - 9:38 AM

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Oscar Gonzalez (CN=Oscar Gonzalez/OU=OMB/O=EOP [UNKNOWN])

CREATION DATE/TIME:22-JUN-1999 13:06:26.00

SUBJECT: REMINDER on LRM OGG25 - - LABOR Report on HR987 Workplace Preservation Act

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: 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: PARK_D@A1@CD@VAXGTWY@VAXGTWY (PARK_D@A1@CD@VAXGTWY@VAXGTWY [UNKNOWN]) (OMB)

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

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: 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

TEXT:

This is a reminder that your comments on the Labor testimony on LRM OGG25 - - LABOR Report on HR987 Workplace Preservation Act were due at one today. If you've already responded, please disregard this message. If you have not, please provide any comments to me ASAP. Due to the fact that this letter carries a veto threat, more steps are required in the clearance process, and I must therefore move forward as quickly as possible. If I don't hear from you within the hour, I'll have to assume you have no objections to the testimony in its current form.

Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Oscar Gonzalez (CN=Oscar Gonzalez/OU=OMB/O=EOP [UNKNOWN])

CREATION DATE/TIME:22-JUN-1999 13:09:14.00

SUBJECT: LRM OGG28 - - 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: 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: PARK_D@A1@CD@VAXGTWY@VAXGTWY (PARK_D@A1@CD@VAXGTWY@VAXGTWY [UNKNOWN]) (OMB)

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

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: 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

TEXT:

Disregard previous reminder

This is a reminder that your comments on the Labor testimony on LRM OGG28
- - LRM OGG28 - - LABOR Report on HR1381 Rewarding Performance in
Compensation Act were due at one today. If you've already responded,
please disregard this message. If you have not, please provide any
comments to me ASAP. Due to the fact that this letter carries a veto
threat, more steps are required in the clearance process, and I must
therefore move forward as quickly as possible. If I don't hear from you
within the hour, I'll have to assume you have no objections to the
testimony in its current form.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:22-JUN-1999 16:27:41.00

SUBJECT: FOR YOUR CLEARANCE -- Draft DoL Letter on H.R. 1381 --

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

CC: Courtney O. Gregoire (CN=Courtney O. Gregoire/OU=OPD/O=EOP@EOP [OPD])

READ:UNKNOWN

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

READ:UNKNOWN

CC: Jennifer E. McGee (CN=Jennifer E. McGee/OU=OMB/O=EOP@EOP [UNKNOWN])

READ:UNKNOWN

TEXT:

Attached below is a letter from Labor Secretary Herman on HR 1381 "Rewarding Performance in Compensation Act" to be presented to the House Committee on Education and Workforce prior to a markup of the bill on Wednesday, June 23rd. The letter is nearly identical to a previous Labor letter dated May 19th (Please let me know if you would like a faxed copy of the May 19 letter). Please note that position in the draft letter contains a secretarial veto recommendation (as did the May 19th letter). Due to the short timeframe, your immediate attention is greatly appreciated. Please provide your sign-off or comments no later than 5:00PM TODAY. Thank you!

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

Dear Chairman Goodling:

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," 8 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 regular rate is the basis for calculating overtime premium (time-and-a-half pay). As I previously advised Subcommittee Chairman Ballenger in my letter of May 19, 1999, the effect of this amendment would be to diminish employees', entitlements to overtime premium pay under the FLSA. Accordingly, if H.R. 1381 were presented to the President, I would recommend that he veto it.

This bill would substantially reverse the FLSA's long-standing overtime policy and drastically weaken existing protections for workers to receive true time-and-a-half overtime premium pay. Moreover, H.R. 1381 does nothing to guarantee that workers would ever share in their employers' gains 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 would be overtime at time-and-a-half of an artificially reduced hourly wage, not their true regular rate. This bill would encourage employers to have their employees work for longer hours at lower earnings, the opposite of the original intent of the FLSA's overtime standards--to limit the detrimental impact that long work hours can have on the health, efficiency and general well-being of workers.

This bill would 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 having employees work excessively long hours and ensure fair compensation to employees for the burdens of working extended hours for their employer. The Department of Labor strongly opposes H.R. 1381 because it is contrary to the best interests of the Nation's workers who would be affected by 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 President'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:22-JUN-1999 20:18:16.00

SUBJECT: FINAL CLEARANCE -- 9:30AM Wed 6/23 DEADLINE -- DRAFT SAP -- HR 2084 -- DoT

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

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

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

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

CC: Courtney O. Gregoire (CN=Courtney O. Gregoire/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

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

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

CC: Scott R. Hynes (CN=Scott R. Hynes/O=OVP@OVP [UNKNOWN])
READ:UNKNOWN

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

CC: Mara E. Rudman (CN=Mara E. Rudman/OU=NSC/O=EOP@EOP [UNKNOWN])
READ:UNKNOWN

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

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

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

TEXT:

Attached for your sign-off is a draft House Floor SAP for H.R. 2084 -- Department of Transportation and Related Agencies Appropriations Bill, FY00. HR 2084 is scheduled to go to the House floor for consideration at 10:00AM Wed., June 23. This draft SAP is virtually identical to the House Rules SAP sent last week. The only change is the addition of the last bullet (in Bold) relating to the air traffic control report language which the Administration signed last year.

Due to the short timeframe we have to clear this draft, we are doing a simultaneous clearance. Please provide your sign-off and/or comments no later than 9:30AM Tues. Thank you!

DRAFT NOT FOR RELEASE

June __, 1999

(House Floor)

H.R. 2084, DEPARTMENT OF TRANSPORTATION
AND RELATED AGENCIES APPROPRIATIONS BILL, FY 2000
(Sponsors: Young (R), Florida; Wolf (R), Virginia)

This Statement of Administration Policy provides the Administration's views on the Transportation and Related Agencies Appropriations Bill, FY 2000, as reported by the House Appropriations Committee. Your consideration of the Administration's views would be appreciated.

The Administration appreciates the Committee's efforts to accommodate many of the Administration's priorities within its 302(b) allocation, particularly the funding provided for Amtrak. However, the Administration is concerned about some of the choices made necessary by this allocation.

The President's FY 2000 Budget proposes levels of discretionary spending that meet important national needs while conforming to the Bipartisan Budget Agreement by making savings proposals in mandatory and other programs available to help finance vital spending needs. Congress has approved and the President has signed into law nearly \$29 billion of such offsets in appropriations legislation since 1995. The Administration urges the Congress to consider such proposals as the FY 2000 appropriations process moves forward.

The Administration proposes to meet important transportation safety, mobility, and environmental requirements by reallocating a portion of the increased spending permitted by higher-than-anticipated highway excise taxes. Under this proposal, every State would receive at least as much funding as was assumed when the Transportation Equity Act for the 21st Century was enacted. Last year, Congress chose to reallocate limited funding within the highway "guarantee." The House is encouraged to build upon this by enacting the Administration's proposal as a means to fund these important priorities.

The Administration is concerned that the Committee bill could compromise the Federal Aviation Administration's (FAA's) operations and modernization programs, reduce highway and motor carrier safety, and under-fund other important programs. The House could partially accommodate the funding increases recommended below by adhering more closely to the President's request for the Airport Improvement Program, High Speed Rail, Coast Guard Alteration of Bridges, Coast Guard capital improvements, and other programs.

The Committee is commended for permitting transit discretionary grants to be allocated according to the needs-based formula agreed to in the Transportation Equity Act for the 21st Century, instead of arbitrarily restricting individual States' funding. The Committee is commended for not prematurely encouraging the closure of Coast Guard training facilities without regard to the results of the ongoing Coast Guard review as to the best use of those facilities.

The following highlights our specific concerns with the Committee bill.

Aviation Safety and Modernization

The Administration strongly urges the House to fully fund the Administration's request for FAA Operations. The \$114 million, or two-percent, reduction made by the Committee would force the FAA to close low-level towers, defer hiring of safety and security personnel needed to meet the demands of increased air travel, and possibly slow air travel. The Administration is concerned with the Committee's reduction of \$6.6 million in FAA's request for rental payments to the General Services

Administration. Since rent is a mandatory payment, FAA would have to reduce operating spending further to absorb this reduction.

The House is also urged to restore the \$119 million, or five-percent, reduction to the FAA Facilities and Equipment account. The Committee's funding level could undermine our National Airspace System modernization program. Safety projects as well as critically-needed capacity enhancing projects would be delayed, increasing future air travel delays. For example, the Administration urges the House to provide the requested \$17 million in critically-needed funding to ensure timely implementation of a Global Positioning System (GPS) modernization plan that will help enable transition to a more efficient, GPS-based air navigation system.

The Administration supports the Committee's decision to eliminate the General Fund subsidy for FAA Operations but urges the Congress to enact a user fee system to finance the agency. Such a system would improve the FAA's efficiency and effectiveness by creating new incentives for it to operate in a business-like manner.

Motor Carrier Safety

The Secretary of Transportation recently announced a comprehensive Motor Carrier Safety Action Plan to implement much-needed improvements in truck safety. The need for these improvements has been recognized by the Appropriations Committee and Congress overall, the Department of Transportation Inspector General, and an independent assessment conducted by former Congressman Mineta. The House is urged to provide the additional \$50 million for the National Motor Carrier Safety Grant program to undertake the improvements in enforcement, research, and data activities designed to increase safety on our Nation's roads and highways.

Highway Safety

The Administration is concerned that the Committee has provided \$36 million less than the President has requested for the National Highway Traffic Safety Administration's Operations and Research account. This funding reduction would limit important research activities on advanced air bags, crash worthiness, and the enhanced testing proposed in the New Car Assessment program to make better car safety information available to the public.

CAFE Standards

The Administration strongly opposes, and urges the House to drop, the prohibition of work on the corporate average fuel economy (CAFE) standards. These standards have resulted in a doubling of the fuel economy of the car fleet, saving the nation billions of gallons of oil and the consumer billions of dollars. Because prohibitions such as this have been enacted in recent years, the Department of Transportation has been unable to fully analyze this important issue. These prohibitions have limited the availability of important information that directly influences the Nation's environment.

Amtrak

The Committee is commended for funding Amtrak at \$571 million, the President's requested level and the level called for in Amtrak's

"glidepath" to self-sufficiency, and providing Amtrak with the flexibility to spend capital funds wisely by adopting for Amtrak the same definition of capital as used by transit grantees. The Administration would oppose efforts to fund Amtrak below this level because lower levels would jeopardize Amtrak's ability to achieve self-sufficiency by 2003 and could delay introduction of high-speed rail service in the Northeast Corridor and force other service reductions and route closures.

Livability Programs

The Administration is disappointed that the Committee bill funds transit formula grants at \$212 million below the President's request and the Transportation Community and Preservation Pilot program (TCSP) at \$25 million, or 50 percent, below the request. Further, the earmarking of the TCSP program would hinder the goal of improving land use by not permitting the development and identification of innovative new approaches. Finally, the Administration is disappointed that the Committee bill does not direct additional funding to the Congestion Mitigation and Air Quality Improvement program. These livability programs are important components of an Administration effort to provide communities with the tools and resources they need to combat congestion and sprawl.

Job Access and Reverse Commute

The Administration is disappointed that the Committee has provided only \$75 million -- half of the amount authorized and requested -- for the Job Access and Reverse Commute program. This program is a critical component of the Administration's welfare-to-work effort and is significantly over-subscribed at present. Demand is expected to increase as more communities around the country begin to see how effective the program can be in helping individuals make a successful transition from welfare to work.

Coast Guard

The Administration is concerned about the Committee's earmarks to continue operations of the Long Island, New York, and Muskegon, Michigan, air facilities and to establish an additional air facility at Waukegan, Illinois. The Coast Guard has concluded, based on careful review, that none of these facilities are necessary to meet its search and rescue coverage standards. By forcing the Coast Guard to spend nearly \$9 million on these facilities, the House is effectively reducing funding for higher priority Coast Guard activities, such as improving boat station readiness nationwide.

Report Language Issue

The Administration is concerned with report language that would not fund the controller-in-charge differential, which was part of the carefully crafted air traffic controller agreement reached last year.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:25-JUN-1999 09:02:29.00

SUBJECT: LRM RJP108 - - Executive Office of the President Statement of Administrati

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Sarah Wilson (CN=Sarah Wilson/OU=WHO/O=EOP@EOP [UNKNOWN])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: KAGAN_E@A1@CD@LNGTWY (KAGAN_E@A1@CD@LNGTWY [UNKNOWN])

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

TEXT:

NOTE: DRAFT SAP CONTAINS SENIOR ADVISERS VETO THREAT - HOUSE ACTION
EXPECTED NEXT WEEK. COMMENTS ARE DUE AT 2:00 P.M. TODAY. DRAFT SAP
FOLLOWS--

----- Forwarded by Robert J. Pellicci/OMB/EOP on 06/25/99
08:58 AM -----

LRM ID: RJP108
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, June 25, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution
below
FROM: Janet R. Forsgren (for) Assistant Director for
Legislative Reference
OMB CONTACT: Robert J. Pellicci
PHONE: (202)395-4871 FAX: (202)395-6148
SUBJECT: Executive Office of the President Statement of
Administration Policy on HR1218 Child Custody Protection Act

DEADLINE: 2:00 p.m. Friday, June 25, 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: House floor action is expected next week.

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LRM ID: RJP108 SUBJECT: Executive Office of the President
Statement of Administration Policy on HR1218 Child Custody Protection 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: Robert J. Pellicci Phone: 395-4871 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant):
395-7362

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

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

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

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

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

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June 25, 1999
(House)

H.R. 1218 - Child Custody Protection Act
(Rep. Ros-Lehtinen (R) FL and 129 cosponsors)

The Administration strongly opposes enactment of H.R. 1218 in its current form. If a bill is presented to the President that fails to address the concerns that are described below, the President's senior advisers would recommend that he veto it.

During Congressional consideration of almost identical bills during the 105th Congress, the Administration, in Statements of Administration Policy and in letters from former White House Chief-of-Staff Erskine Bowles to the House and Senate Committees on the Judiciary, stated that it would support properly crafted legislation that would make it illegal to transport minors across state lines for the purpose of avoiding parental involvement requirements. Unfortunately, H.R. 1218, as reported by the House Committee on the Judiciary, also fails to address a number of the critical concerns raised by the Administration. Specifically, the bill must be amended to:

- Exclude close family members from criminal and civil liability. Under the legislation, grandmothers, aunts, and minor and adult siblings could face criminal prosecution for coming to the aid of a relative in distress.
- Ensure that persons who only provide information, counseling, referral, or medical services to the minor cannot be subject to liability.
- Address constitutional and other legal infirmities that the Department of Justice has identified in particular provisions of the legislation. These concerns were transmitted to the House Committee on the Judiciary on June 24, 1998, and again on June 15, 1999.

The Administration continues to be concerned that H.R. 1218 raises important federalism issues, including the rights of States to regulate matters within their own boundaries. The Administration believes, however, that legislation that addresses the concerns noted above, and that is carefully targeted at punishing non-relatives who transport minors across State lines for the purpose of avoiding parental involvement requirements, would mitigate the federalism and the Administration's other concerns.

Pay-As-You-Go Scoring

H.R. 1218 could affect both direct spending and receipts; therefore, it is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990. OMB's preliminary scoring estimate of this bill is that it would have a net effect of less than \$500,000.

* * * * *

(Do Not Distribute Outside Executive Office of the President)

This Statement of Administration Policy was developed by the Legislative Reference Division (Pellicci) in consultation with HD (), TCJS (), EIML (), BASD (), and the White House Offices of Policy Development (), Legislative Affairs (), and the General Counsel (). The Department of Justice () and Health and Human Services ()

OMB/LA Clearance: _____

The proposed position is consistent with that taken on June 15, 1999, in a letter from the Justice Department to the House Committee on the Judiciary. It also is consistent with SAPs and letters from former Chief-of-Staff Bowles to the House and Senate Committees on the Judiciary on almost identical bills in the 105th Congress.

Last year's bill (H.R. 3682) passed the House by a vote of 276-150, but the Senate was unable to invoke cloture on its version of the measure (S. 1645), and no further action was taken.

H.R. 1218 was ordered reported by the House Committee on the Judiciary by a vote of 16-13 along party lines on June 23, 1999.

Summary of H.R. 1218

As ordered reported, H.R. 1218 would make it illegal for anyone -- other than the girl's parent or guardian -- to knowingly transport a minor across a State line to obtain an abortion in cases in which the minor has not satisfied her home State's laws regarding "parental involvement" (i.e., laws requiring parental consent or notification). H.R. 1218 would subject individuals violating the bill's provisions to civil and criminal penalties, including the possibility of imprisonment for up to one year. The bill would allow an out-of-State abortion without parental notification if the abortion was necessary to save the minor's life.

H.R. 1218 would make it an affirmative defense to prosecution under the bill that the defendant reasonably believed that before the individual obtained the abortion, parental consent or notification or judicial authorization that would have been required had the abortion been performed in the State where the individual resides, took place. In addition, under the bill any parent or guardian who is effected from the violation of a parental notification law would be allowed to seek civil action for damages.

Currently, 22 States require parental consent for a minor to terminate her pregnancy while 17 States have opted for the lesser requirement of parental notification. Eleven States have no parental involvement requirements.

Pay-As-You-Go Scoring

According to BASD (), H.R. 1218 could affect direct spending and receipts; therefore, the bill is subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act of 1990.

Individuals prosecuted and convicted under H.R. 1218 could be subject to criminal fines. Collections of such fines are governmental receipts, which are deposited in the Crime Victims Fund and spent in the following year. OMB estimates that the scoring estimate of this bill is that it would have a net effect of less than \$500,000.

LEGISLATIVE REFERENCE DIVISION DRAFT
06/25/99 - 9:00 a.m.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:29-JUN-1999 18:51:43.00

SUBJECT: URGENT -- FINAL CLEARANCE -- Draft Senate Floor SAP -- S 1234 Foreign Ops

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

Attached for your sign-off is the final draft Senate floor SAP for S. 1234 -- Foreign Ops, Export Financing, and Related Programs Appropriations Bill, FY00. This bill has just been scheduled for Senate floor consideration on Wed., June 30 at 9:30AM. Our aim is to transmit this SAP tonight. Due to the tight time constraints, we are seeking concurrent clearance. Appreciate your sign-off no later than 7:40PM today. Thank you!

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

TEXT:

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960838FC0F2D79C666D16B4A2EDD18ED213F68B9A08DD8A239F0950079BC82CEA33F4191D87D9D

June __, 1999
(Senate Floor)

**S. 1234 -- FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED
PROGRAMS APPROPRIATION BILL, FY 2000**

Sponsors: (Stevens (S), Alaska; McConnell (S), Kentucky)

This Statement of Administration Policy provides the Administration's views on the Foreign Operations, Export Financing, and Related Programs Appropriations Bill, FY 2000, as reported by the Senate Appropriations Committee. As the Senate considers the Committee-reported bill, your consideration of the Administration's views would be appreciated.

The Administration appreciates the Committee's efforts to accommodate some of the Administration's priorities within its 302(b) allocation. However, the inadequacy of the 302(b) allocation has forced the Committee to make choices that are simply unacceptable.

The allocation of discretionary resources available to the Senate 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 meet such needs while conforming to the Bipartisan Budget Agreement by making savings proposals in mandatory and other programs available to help finance this spending. Congress has approved, and the President has signed into law, nearly \$29 billion of such offsets in appropriations legislation since 1995. The Administration urges the Congress to consider such proposals.

This legislation is a critical element of America's national security budget. As a result of the inadequate 302(b) allocation for Foreign Operations, the Committee bill is more than \$1.9 billion, or 13 percent, below the program level requested by the President, which would result in the severe under-funding of a number of crucial programs. A bill funded at this level would be grossly inadequate to maintain America's leadership around the world. It inevitably would require severe reductions from previously enacted levels for programs managed by the Departments of State and Treasury, the Agency for International Development, and other agencies.

The bill provides neither the \$500 million requested by the President to support the Wye River Agreement, nor any of the \$800 million requested as an FY 1999 supplemental appropriation. It also would significantly increase our arrears to various multilateral

development banks, after three years of bipartisan progress in reducing these arrears, thus undermining our leadership in these institutions. The Committee's decision not to fund the Expanded Threat Reduction Initiative undermines our ability to reduce the proliferation threat and continue the elimination of weapons of mass destruction (WMD). The cut in funding for debt reduction programs would preclude our leadership in reducing debt of the poorest countries.

Given current tensions on the Korean peninsula and the 37,000 U.S. troops stationed there, the reduction for the Korean Peninsula Energy Development Organization (KEDO) is ill-advised.

Moreover, the bill contains substantial earmarks and objectionable restrictions on language which, when combined with the reduced funding level, would seriously limit the President's flexibility to conduct an effective foreign policy. Various provisions concerning Kosovo, in the context of difficult and fluid circumstances on the ground, are particularly ill-advised. For example, the earmark to train and equip a security force in Kosovo would reduce the Administration's flexibility and, given current intra-Kosovar rivalries, could threaten the lives of American military and civilian peacekeepers. The designation of Serbia as a terrorist state would have the unintended consequence of cutting off aid to Front Line and other states, even if they provide only humanitarian assistance to the Former Republic of Yugoslavia. The total prohibition on assistance to Russia pending certification that Russia is not assisting Iran's development of nuclear and ballistic missile technologies would complicate our efforts to achieve those very goals and would undermine other vital American interests in ensuring constructive relations with a more stable Russia.

If the Congress were to enact a bill that does not resolve the significant funding and language problems in the current Committee bill, as discussed in this Statement of Administration Position and its attachment, the President's senior advisers would have no choice but to recommend that he veto the bill.

Detailed comments on the Senate Committee-reported bill are provided in the attachment.

Attachment

ADDITIONAL CONCERNS
S. 1234 FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED
PROGRAMS APPROPRIATIONS BILL, FY 2000

(AS REPORTED BY THE SENATE APPROPRIATIONS COMMITTEE)

For the following accounts, the Administration urges the Senate to restore funding to the levels in the President's FY 2000 request.

Multilateral Development Banks. The reduction of \$444 million, or 32 percent, by the Committee to the President's request for the Multilateral Development Banks would unravel the progress made in the FY 1998 and 1999 appropriations towards meeting the past-due obligations of the United States to these institutions and in meeting our continued obligations to them at the much-reduced level that has been negotiated over recent years. In particular, the lack of any funding whatsoever for the African Development Fund and the drastic cuts in the requests for the Global Environment Facility and the Asian Development Fund would call into question the willingness of other donors to continue their support for these critical institutions at the very point when their support for environmental and economic development is most needed.

Southeast Europe and Kosovo. The Administration appreciates the increase in Support for Eastern Europe Democracy (SEED) funding in recognition of U.S. security interests in restoring and sustaining stability in Southeast Europe. However, we strongly oppose the earmarks of the SEED account, earmarks that, if enacted, would eviscerate the President's flexibility in meeting any unanticipated economic stabilization needs in this war-ravaged region. In addition, the funding limitations on Bosnia would only increase the risk that the peace we have worked to establish in that country could begin to unravel just as the Kosovo conflict shows signs of abatement.

With regard to Kosovo, the Administration is strongly opposed to language which, coupled with the language contained in the Committee report, could be interpreted as aimed at training and equipping the Kosovo Liberation Army (KLA), a policy prescription diametrically at odds with the recent agreement by the KLA to disarm under NATO supervision. If adopted, we believe this provision could threaten the lives of American military and civilian peacekeepers and humanitarian care providers, particularly in view of current intra-Kosovar rivalries.

The Administration also strongly opposes the designation of the Government of Serbia as

a state sponsor of international terrorism and gross human rights violator. While egregious, the actions taken by officials of that Government against the Kosovar people do not constitute "international terrorism" as that term is used in U.S. terrorism legislation. The provision contains neither a waiver, nor an authority to "de-designate" and would impinge on the authority of the Secretary of State. Moreover, the bill's designation of Serbia as a state sponsor of international terrorism could have the unintended consequence of imposing sanctions on Front Line States and other countries that, whether because humanitarian or other concerns, provide assistance of any kind to the Government of the Federal Republic of Yugoslavia. This could further destabilize an already war-torn region and make more difficult the task of assuring stability in the broader region.

Sec. 567 -- Restrictions on Assistance to Countries Providing Sanctuary to Indicted War Criminals. While the Administration appreciates the Committee's desire to speed the apprehension and trial of war criminals, the Administration opposes any provision that would increase restrictions in current law on former Yugoslav entities harboring war criminals as too restrictive, unnecessary, too burdensome in implementation, and jeopardizing successful Dayton implementation.

Assistance to the Newly Independent States (NIS). The Committee bill would reduce the President's request for assistance to the NIS by 24 percent, and over half of the \$780 million that is provided would be earmarked for three countries in the region. This would leave little in funding for reforming countries such as Moldova, or to fund the vitally important Expanded Threat Reduction Initiative. The reduction in the Committee bill would also reduce funding for programs that the Senate has supported aimed at fostering grass root support for reform in the region, including micro-lending and exchange programs. Such cuts would undermine our efforts to help the countries of the region to become integrated into the global economy and play constructive roles in global affairs. They equally would make it more difficult to press for further market reforms and to support democratic forces across the region.

The Administration strongly opposes conditioning all assistance to Russia on a certification that Russia is not assisting the Government of Iran's development of nuclear and ballistic missile technologies. This would complicate our efforts to achieve those very goals and would undermine other vital American interests in ensuring constructive relations with a more stable Russia.

Expanded Threat Reduction Initiative (ETRI). The Committee provides no support for proposed increases for this critical national security initiative. We have made dramatic strides in securing nuclear materials and important progress in strengthening export controls in these countries. The primary objective of the Expanded Threat Reduction Initiative is to further reduce international security threats by expanding and accelerating U.S. and international assistance activities in Russia and the other NIS to address high

priority security and proliferation concerns. This initiative has received wide support in Western Europe and Japan. The costs of having to defend against weapons of mass destruction (WMD) proliferation are enormous. At a fraction of such costs, the international community can join together to reduce the proliferation threat through ETRI.

Korean Peninsula Energy Development Organization (KEDO). The Administration strongly objects to the bill's provisions concerning KEDO. The cut of \$15 million, or 20 percent, in funding for KEDO could prevent the United States from fulfilling its commitments under the Agreed Framework to provide heavy fuel oil to North Korea and could damage our nonproliferation policy on the Korean Peninsula. Restrictions on funding relating to North Korean missile exports and "nuclear capability" would also jeopardize our ability to meet our commitments on the peninsula. Stopping North Korea's ballistic missile and nuclear programs, including its exports, are a priority goal of the Administration and a key focus of Secretary Perry's review of U.S. policy, but any failure by the United States to uphold the Agreed Framework risks giving North Korea an excuse to develop both ballistic missiles and nuclear weapons. In addition, the requirement for a 45-day delay in Presidential certification would seriously undermine our ability to maintain the funding schedule for KEDO. Finally, we strongly oppose the prohibition on use of Economic Support Fund (ESF) funds for KEDO, which would unduly restrict the President's flexibility to deal with unexpected foreign policy developments.

Wye River and Middle Eastern Assistance. The Committee bill fails to provide any of the \$500 million requested by the President for FY 2000 to support the Wye River Agreement, nor does it provide any of the \$800 million requested as an FY 1999 supplemental appropriation, with budget authority offsets, for this purpose. Given the renewed dedication of all sides to the peace process, this complete lack of funding would undercut the U.S. Government's efforts to support this historic opportunity to strengthen the peace process and move toward a permanent agreement.

The Administration continues to welcome the efforts of the Committee to ramp down traditional levels of assistance to countries in the Middle East. However, the Administration is disappointed both at the Committee's failure to accept our specific proposal for a gradual reduction in aid to Israel and Egypt and with the Committee's decision not to incorporate the provision of an Interest Bearing Account for a portion of Egypt's Foreign Military Financing (FMF). The Administration will work with the Congress on the scoring implication of this proposal.

Economic Support Fund (ESF). The reduction of almost \$200 million to the President's request for non-Wye River ESF would effectively remove any discretion that the President has to respond to a host of threats around the world. These cuts would force the reduction or elimination of programs intended to increase political stability and democratization in Africa; support democracy efforts in Guatemala, Peru, and Ecuador; sustain implementation of the Belfast Good Friday Accord; bolster democratic reform and

economic recovery in Asia; and, support Arab/Israeli cooperation programs in the Middle East.

Debt Reduction. The cut of almost two-thirds to the President's request for debt reduction programs, from \$120 million to \$43 million, would cripple our ability to fund the bipartisan debt for environment program that was enacted by the Congress last year and would damage our ability to contribute to the Trust Fund for the Highly Indebted Poor Countries, which is an essential component of current debt reduction programs as well as of the historic debt initiative agreed to in Cologne. This initiative has received broad support from governments, multilateral institutions, religious groups, and individuals worldwide.

Peacekeeping Operations. The Committee's \$50 million, or 38 percent, cut to the President's request for voluntary peacekeeping operations would decrease funds available for Organization for Security and Cooperation in Europe (OSCE) missions in Bosnia and Croatia, significantly reduce assistance for the African Crisis Response Initiative, and eliminate funding for Haiti. In doing so, such a substantial reduction would also raise international concern that the United States may not support its fair share of the international police force that will help to implement the Kosovo peace settlement, for which new resources will be needed.

International Narcotics and Crime. The cut of \$80 million, or 27 percent, to the President's request for International Narcotics and Crime programs would significantly impact programs designed to implement the National Drug Control Strategy, including alternative development efforts in Columbia, Peru, and Bolivia, and would reduce our support for the U.N. Drug Control Program and other important multilateral anti-narcotics efforts. A cut of this magnitude would also significantly undercut the Administration's programs in support of the President's new International Crime Control Strategy, which was released in May 1998.

Nonproliferation, Anti-terrorism, Demining, and Related Programs. The Committee has cut these programs by \$56 million, or 24 percent, from the President's request. In addition to the reduction for KEDO discussed separately, the request for export control assistance would be cut by two-thirds (from \$15 million to \$5 million). This would greatly slow our efforts to assist the NIS and other regions to develop tighter controls to prevent nuclear smuggling.

Peace Corps. The Administration is very concerned by the Committee's \$50 million, or 19 percent, reduction to the President's request for the Peace Corps. This reduction, which would cut funding by over \$20 million from the FY 1999 enacted level, would require the Peace Corps to reduce the current level of volunteers by over 1,000. It would also prevent implementation of the bipartisan initiative to field 10,000 volunteers in the new century. This Administration goal was enacted into law in 1985 as "the policy of the United States and the purpose of the Peace Corps," and was confirmed in this year's Peace Corps reauthorization (which was approved by the Senate by unanimous consent).

U.S. Agency for International Development (USAID). The Administration appreciates the Committee's support for a number of the Administration's development initiatives. In particular, the Committee's support for the "School Works" program will provide important resources for the fight against child labor.

However, the Committee bill and accompanying Senate Committee Report contain an unprecedented number of earmarks, directives and recommendations for funding, with over 30 earmarks in bill language and over 60 directives or recommendations in report language. When combined with the degree of specificity for funding -- in some cases down to the project type and appointed grant recipient -- these produce an unmatched and unwarranted level of micro-management.

The Administration appreciates the increase over FY 1999 in funding for USAID's operating expenses. However, the reduction of almost \$13 million from the request, coupled with the higher-than-anticipated costs of improving security at overseas posts, would force USAID to reduce its permanent staff by even more positions than already planned. P.L. 105-277, the FY 1999 Omnibus Consolidated and Emergency Supplemental Appropriations Act mandated the transfer of the security function to USAID from its Inspector General.

Although sufficient disaster assistance resources have been provided for Kosovo through supplemental appropriations, the 20-percent reduction to the Administration's FY 2000 disaster assistance request would limit USAID's ability to meet humanitarian needs in other parts of the world, particularly in Africa. It would also threaten USAID's ability to provide assistance to the victims of nuclear, chemical, or biological disasters abroad, and would limit the ability of Office of Transition Initiatives to provide needed assistance to countries that are making the transition from conflict situations.

The Administration is disappointed that the Committee has not approved transfer authority for the Development Credit Authority. USAID's recent implementation of a credit management out-sourcing contract and other credit management improvements justifies continued funding of this innovative new credit mechanism.

The Administration is concerned that its request for reinstatement of the Development Fund for Africa (DFA) is not included in the bill. Funding provided under the DFA affords needed stability to respond to development opportunities in Africa, as well as to complex crises on a fragile continent, and maintains our strong commitment to an Africa in transition.

Finally, we are concerned that the Committee has not approved the requested authority for USAID to create a Working Capital Fund similar to those already available to the Department of State and other agencies. We hope to work with the Senate to give USAID the means to capture the costs of becoming a service provider to other agencies under the ICASS system and, therefore, encourage competition among agencies to

provide the lowest-cost and most efficient services.

Migration and Refugee Assistance (MRA). The Committee's \$50 million reduction to the President's request for MRA would require a reduction in annual refugee admissions to the United States of up to 10,000. A reduction of this magnitude also would eliminate resources for an initiative to address programming shortfalls in Africa and South Asia necessary to provide life-saving, minimum international standards of assistance in key sectors (including nutrition, shelter, medicine, sanitation, and protection). Such reductions in assistance to refugees in Africa and elsewhere at the very time huge resources are going into Kosovo would create serious political and equity issues.

Export and Investment Financing. The Administration appreciates the Committee's effort to support the President's export initiative by increasing funding for the Export-Import Bank, especially the administrative budget, which is essential to the Bank's efforts to increase small business exports. We urge the Senate, as this bill progresses, to increase the Bank's credit subsidy budget to the President's requested level to enable U.S. exporters to continue to export to the developing world during the ongoing economic downturn.

The Administration is very concerned about the reduction in funding for the Trade and Development Agency (TDA) below both the President's request and the FY 1999 enacted level. The request for TDA is an integral part of the President's export initiative, and the Committee bill would significantly reduce TDA's ability to fund feasibility studies that help U.S. exporters take advantage of potential market opportunities.

Likewise, the Administration is very concerned about the reduction in administrative expenses for the Overseas Private Investment Corporation. This \$3.5 million reduction below the request, or \$1 million below the FY 1999 enacted level, could threaten the agency's capability to operate in a financially responsible and prudent manner, and runs counter to efforts to mobilize U.S. private sector support for key foreign policy priorities.

The Administration believes the Senate provision mandating OPIC to establish an investment fund is inappropriate because it would eliminate OPIC's discretion to determine whether such a fund is financially viable.

African Development and Inter-American Foundations. The Administration strongly objects to the suspension of funding for the Inter-America Foundation. It is inappropriate to suspend funding for an entire agency as the result of the alleged improprieties of individual staff members.

The Administration appreciates the Committee's efforts to support the African Development Foundation (ADF). However, the Committee's funding level of \$12.5 million still falls short of the amount necessary for the ADF to continue its important

work of supporting Africans at the grassroots level, including micro-credit and trade and investment programs. The Committee has previously acknowledged the ADF's improvements in private sector outreach, as well as the Foundation's streamlining of operations.

International Organizations & Programs. The Administration opposes the \$22 million cut in the request for IO&P's. Further, while we strongly support the programs earmarked by the Committee, the Administration must retain its flexibility in funding these programs, consistent with an overall assessment of the national interest.

Treasury International Affairs Technical Assistance. The Administration is concerned that the Committee provided only \$1.5 million of the \$8.5 million request for the Department of the Treasury's International Affairs Technical Assistance program. If the International Financial Institution and International Monetary Fund Advisory Committees requested in this account are fully funded at \$1.5 million, no funding will be available for the technical assistance that the Department plans to provide to Ministries of Finance and Central Banks that are attempting to implement fiscal and financial reforms in Africa, Asia and Latin America. Similarly, if technical assistance is funded at last year's level of \$1.5 million, no funding would be available to implement the mandated Advisory Committees.

Silk Road Strategy Act. The Administration strongly supports passage of the Silk Road Strategy Act, which may be added to the bill as an amendment. We appreciate the Committee's continued efforts to reduce restrictions in section 907 of the FREEDOM Support Act. This Administration, like its predecessors, has opposed section 907 and called for its repeal. Section 907 damages U.S. national interests by undermining the United States' neutrality in seeking to promote a settlement in the Nagorno-Karabakh dispute; by restricting our ability to provide assistance that would encourage economic and broad legal reforms in Azerbaijan; and, by limiting our efforts to advance an east-west energy transport corridor. While the Silk Road Strategy Act does not provide for the full repeal of Section 907 that the Administration has sought, it would allow the President to waive these restrictions if he determined that they were not in the national interest of the United States.