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

- P1 National Security Classified Information [(a)(1) of the PRA]
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- P5 Release would disclose confidential advice between the President and his advisors, or between such advisors [(a)(5) of the PRA]
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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]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elena Kagan@EOP@LNGTWY@LNGTWY ( Elena Kagan@EOP@LNGTWY@LNGTWY [ OPD ] )

CREATION DATE/TIME:30-NOV-1998 20:22:42.00

SUBJECT: Read Receipt: Varmus' Statement on Stem Cell Research

TO: Robert J. Pellicci@EOP ( Robert J. Pellicci@EOP [ OMB ] )

READ:UNKNOWN

TEXT:

Message Creation Date was at 30-NOV-1998 20:20:00



**DRAFT – November 24, 1998 (6:47PM)**

December 14, 1998

The Honorable William Jefferson Clinton  
The White House  
Washington, D.C. 20500

Dear Mr. President:

Attached is our joint report, as requested in your August 6, 1998, Memorandum, regarding the development of a Federal strategic plan for coordinating existing economic development initiatives for Native Americans and Alaska Native communities. The report articulates the components of the plan, which includes the identification of current actions and the proposal of future actions that will improve Federal coordination, increase tribal access to Federal economic development information and assistance, increase economic opportunities within tribal communities, and identify gaps in the delivery of Federal economic development assistance.

The report reflects our consultation with the Domestic Policy Council, the U.S. Department of Agriculture and the Department of Housing and Urban Development. After your review and approval of the report, our next steps will be to implement the current actions identified and to develop further the identified future actions.

We are confident that our proposal will further your goal to improve Federal coordination in the area of economic development as well as meet the needs of the agencies, tribal communities, the private sector and non-profit community that is working to do build strong tribal economies .

Sincerely,

William M. Daley  
Secretary of Commerce

Bruce Babbitt  
Secretary of Interior

Aida Alvarez  
Administrator, Small  
Business Administration

Enclosure

DRAFT – November 24, 1998 (6:43PM)

*Economic Development in Indian Country*

*Joint Report to the President*

*December 14, 1998*

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*Appendices*

- A. President Clinton’s Memorandum for the Secretary of Commerce, the Secretary of Housing and Urban Development, the Secretary of the Interior, the Secretary of the Treasury and Administrator of the Small Business Administration, August 6, 1998
- B. FY 2000 Proposal for a Native American Economic Development Access Center

*DRAFT – November 24, 1998 (6:43PM)*

## **EXECUTIVE SUMMARY**

On August 6, 1998, President Clinton directed the Department of Interior (DOI), the Department of Commerce (DOC), and the Small Business Administration (SBA) to report back within 90 days with a strategic plan for coordinating Federal existing economic development initiatives for Native American and Alaska Native communities, including initiatives involving the private sector. In developing the plan, DOI, DOC and SBA were further directed to consult with all interested parties, including tribal governments and other Federal agencies and offices – particularly, the Department of Housing and Urban Development (HUD), Department of Transportation (DOT), and Department of Agriculture (DOA). Under the Memorandum, DOI, DOC and SBA have joint leadership in the development and implementation of the plan and will use existing and propose new resources to support the elements of the plan.

Based on the work to date of the Subcommittee on Economic Development under The White House Domestic Policy Council Working Group on American Indians and Alaska Natives, including the conference on *Bringing Economic Self-Determination to Indian Communities*, this document articulates a plan in response to the President's Memorandum that is aimed to improve coordination among Federal agencies by (1) increasing access to Federal economic development programs and assistance, (2) increasing opportunities in tribal communities and (2) identifying and addressing gaps in the delivery of Federal economic development assistance. Appendix A is the Presidential Memorandum on Economic Development in American Indian and Alaska Native Communities, which provides the backdrop for the plan. Appendix B is the detailed proposal for the Native American Economic Development Access Center.

The ultimate goal of the plan is to improve the coordination of Federal economic development programs and initiatives, thereby, increasing the effectiveness of, and access to, such programs in Indian country.

## **I. INTRODUCTION**

### **Commitment to Promote Indian Economic Development**

The Clinton Administration has worked hard to honor tribal sovereignty and strengthen government-to-government relations with Indian tribes. Yet, too often, as America moves forward, American Indians and Alaska Natives have been left outside mainstream economic progress. Today, the Bureau of Indian Affairs reports that 49% of adult reservation Indians are without full-time work. The President and the Congress have made clear that economic self-determination is an essential element of Indian self-determination. See Executive Memorandum on Economic Development in American Indian and Alaska Native communities, dated August 6, 1998; 25 U.S.C. § 1451 et seq. (congressional statement of national policy). The Departments of Commerce, Interior and the Small Business Administration are committed to using existing resources and authorities to the fullest to assist Indian tribes to achieve economic self-determination, see e.g., 25 U.S.C. §§ 47, 450 (e) (b), 1542-1544, and, where appropriate and necessary, to seek additional resources to help tribes establish reservation economies to a point where the average Indian standard of living is comparable to the national standard of living.

### **Establishment of the Inter-Agency Subcommittee on Economic Development**

In February, 1998, The White House Domestic Policy Council Working Group on American Indians and Alaskan Natives, chaired by Secretary of Interior Bruce Babbitt, established a Subcommittee on Economic Development. The Subcommittee aims to (1) promote coordination among Federal agencies with existing economic development responsibilities; (2) increase access to Federal economic development programs and initiatives by the tribes and Indian owned businesses; and (3) build awareness about other Federal programs and initiatives that are supportive of tribal economic development efforts.

Several meetings of the Subcommittee were held during Spring 1998. Nearly a dozen agencies were identified as having programs and initiatives that directly or indirectly impact economic development in Indian country. The Subcommittee recognized the difficulty faced by tribes and Indian-owned businesses in trying to locate and access this wide range of Federal assistance. Also recognized was that many synergies exist between the diverse programs and initiatives, and that each agency's efforts to serve Indian country would be strengthened by effective coordination at the Federal level. In learning about the new programs and initiatives that some agencies planned to introduce in 1998, the Subcommittee decided to organize a national conference that would showcase these and other existing Federal initiatives, as well as highlight initiatives by the private sector and tribal and Indian-owned business success stories.

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### **White House Conference on Economic Development**

The conference, *Building Economic Self-Determination in Indian Communities*, was held August 5-6, 1998, in Washington, D.C. Sponsoring agencies included The White House, Departments of Agriculture, Commerce, Defense, Health and Human Services, Housing and Urban Development, Interior, Justice, Labor, Transportation, Treasury, the Indian Health Service, the Comptroller of the Currency, and the Small Business Administration. Panel sessions covered Indian country success stories; building infrastructure and a positive climate for business; expanding business opportunities; Alaska Native economic development; rural business; banking in Indian communities; Federal contracting opportunities. In addition, breakout sessions were held on franchising; the Internet and electronic commerce; welfare to work initiatives; tourism; exporting; communications and technology; diversifying tribal economies; and manufacturing.

The historic conference was attended by nearly 1,000 tribal, private sector and federal officials. The Secretaries of Agriculture, Commerce, Interior, Justice, Labor, and the Administrator of the Small Business Administration provided official addresses underscoring their agency's commitment to opening the doors of economic opportunity to the Indian community. The conference highlight was a keynote address by President Clinton on August 6, 1998, in which he pledged the Administration's assistance on several important fronts to boost economic development in Indian country.

### **President's Memorandum Calling for Improve Federal Coordination**

The conference demonstrated the effectiveness of a strong, coordinated Federal effort. In order to ensure an on-going process, President Clinton, during his address to the conference, directed the Department of Interior, the Department of Commerce, and the Small Business Administration to report back within 90 days with a strategic plan for

*“coordinating existing economic development initiatives for Native American and Alaska Native communities, including initiatives involving the private sector.”*

As the President's Memorandum directed, the Secretary of Interior, Secretary of Commerce and the Administrator of the Small Business Administration would jointly lead the development of the plan and consult with all interested parties, including tribal governments and other Federal agencies and offices – particularly, the Departments of Housing and Urban Development, Transportation and Agriculture. The plan will build upon current efforts in the agencies and detail future efforts such as providing technical assistance, enhancing infrastructure, and development software. Appendix A contains the President's Memorandum in its entirety.

### **Listening Session on Economic Development**

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In developing this plan, the Subcommittee and nearly 100 tribal officials attended a listening session on economic development issues co-hosted by the National Congress of American Indians and the Commerce Department's Economic Development Administration in October, 1998, in Myrtle Beach, South Carolina. Among other things, the tribal officials highlighted the need for Federal economic development programs and initiatives to be more easily identifiable and accessible.

### **Proposed Inter-Agency Plan**

In response to the President's Memorandum, and feedback from the listening session with the tribal officials, the Subcommittee proposes the following elements that will constitute its strategic plan:

1. Increasing access to Federal economic development programs and assistance;
2. Increasing economic development opportunities within tribal communities; and
3. Identifying gaps in Federal economic development efforts that may be addressed through administrative and/or legislative remedies.

This plan serves as a starting point for improved Federal coordination and should be viewed as a "living document" -- one that will be amended and modified in consultation and partnership with Indian country.

## **II. INCREASING ACCESS TO FEDERAL PROGRAMS AND INITIATIVES**

The most important aspects for successful economic development in Indian country is access to information and assistance. This includes topics such as listings of available federal programs and their use, assistance on the development of business plans and other business management and administrative guidance, direction to private capital sources, assistance in developing marketing, import/export initiatives and specialized individual technical assistance and training.

A. The centerpiece of the Subcommittee's plan to increase access and improve coordination involves the following proposed actions:

- **Creation of an Information Referral Center on Economic Development.** The Bureau of Indian Affairs (BIA) proposes, for inclusion in the FY 2000 budget request of the President, the creation of a Native American Economic Development Access Center (NAEDAC). This would provide tribes, Indian-owned businesses, the private sector and non-profits easy access to information on a wide range of Federal economic development

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programs and initiatives. The new center would use a toll-free 1-800 number, the Internet and other technology to enable easy and affordable access by the Indian community. The center could be modeled, in part, after the success of Commerce's Trade Information Center, which is a comprehensive resource for information on all Federal government export assistance programs. The BIA would create and provide the basic support for the center. Appendix B contains a detailed proposal on the functions of the center.

- **Memorandum of Understanding Between Key Agencies.** In order to ensure the effectiveness of the NAEDAC center, a Memorandum of Understanding would be implemented between the BIA and key federal agencies with economic development responsibilities. The agreement would outline the responsibilities of each agency in support of the NAEDAC, including the contribution of data and materials and the training of the center's staff on the objectives of each agency's programs.

**B.** The Subcommittee also has identified other actions that currently are being developed and implemented that will help to increase access and improve coordination:

- **Inventory of Existing Federal Programs.** Work is underway by members of the Subcommittee to produce a comprehensive database of all Federal economic development programs and initiatives impacting Indian country. The BIA will create the database and make it available on their web site and on CD Rom. The inventory also will be produced in hard copy, modeled, in part, after the success of USDA's *Guide to USDA Programs for American Indians and Alaska Natives*, which provides a comprehensive overview of the many important USDA programs available to tribes, including programs administered by the Rural Business-Cooperative Service, Rural Housing Service and Rural Utilities Service. The initial inventory will be completed by the BIA by March, 1999.
- **Strengthening the *Codetalk* Web Site.** Managed by HUD's Office of Native American Programs, this web site is the oldest federal web site specifically targeting Native Americans. Presently, the site focuses on general Indian housing issues, but is being revamped so that it can serve as a portal to other existing Federal resources for Native Americans on areas, such as welfare reform and economic development. HUD proposes implementing a Memorandum of Understanding with other agencies desiring to participate in *Codetalk*.
- **Strengthen Cooperation Between Agency Field Efforts.** The Subcommittee has identified the need for closer cooperation between SBA's Tribal Business Information Centers and the Native American Business Development Centers funded by Commerce's Minority Business Development Agency (MBDA). Between these two agencies, a total of approximately 22 sites are strategically located throughout Indian country, primarily in

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conjunction with the tribal college system. The centers' products and services need to be as comprehensive as possible and each site should contain an identical reservoir of information and personal assistance.

In addition, the Subcommittee recommends that SBA and MBDA coordinate with the following Federal resources aimed at improving tribal economic development: USDA's Rural Development offices and personnel with expertise in business, community, and housing programs in states with large American Indian reservations; Commerce's U.S. Export Assistance Center, which has a team of experts in key field offices to promote exports by American Indian businesses, particularly in the areas of jewelry, arts and crafts, tourism and entertainment; and HUD's Community Buildings program.

### **III. INCREASING ECONOMIC DEVELOPMENT OPPORTUNITIES IN TRIBAL COMMUNITIES**

The Subcommittee also has identified actions, some of which are currently being developed and some of which are proposed for the future, that will help to support and enhance economic development opportunities within tribal communities. The Subcommittee will work to ensure that information about these activities are disseminated throughout the Federal government and implemented in a coordinated fashion:

A. The following actions are proposed by the Subcommittee to enhance opportunities within tribal communities:

- **Business Deals on Wheels Seminars.** The BIA's FY 2000 proposal for the Native American Economic Development Access Center identifies the need for a coordinated effort to bring existing Federal initiatives directly to Indian communities. Because SBA's Tribal Business Information Centers and MBDA's Native American Business Development Centers are geographically stationary and sometimes hard to reach by those unable to travel, a traveling business seminar would be developed by the Center and manned by a combination of headquarters and field agency personnel, as well as private resources. The seminars would consist of both general sessions and individualized technical assistance on a variety of topics, such as tourism, banking, etc. The seminars would be tailored, where possible, to the community where the seminar is taking place.
  
- **Demonstration Program on Economic Development.** HUD's Office of Native American Programs, as part of its FY 2000 budget, proposes a demonstration program to improve the utilization of the Indian Community Development Block Grant and Indian Housing Block Grant Program. The two programs combined represent a significant resource for economic or business development.

- **Indian Graduate Business Fellowships.** The Department of Justice’s Office of Native American Programs proposes the creation of an Indian Graduate Business Fellowships program in order to address the need for greater managerial and financial expertise in Indian country. In other fields, such as law, Federal Indian fellowship programs have been extremely helpful in developing qualified Indian professionals to serve the Federal and tribal governments as well as the private sector. Experience has shown that a targeted Federal Indian fellowship program for graduate students in business related fields would boost tribal human resources infrastructure and assist in long-term efforts to boost Indian economies. Appropriate legislation and funding would be needed to support the initiative, which could be modeled after the Indian Health Service’s Indians into Medicine Program.

**B.** The Subcommittee also has identified the following actions that currently are being developed and implemented that will have an impact on tribal economic development efforts:

- **Study on Lending and Investing in Indian Country.** The Community Development Financial Institution (CDFI) Fund will be conducting a study on lending and investment practices on Indian reservations and other land held in trust by the United States. The components of the study are to (1) identify barriers to private financing; (2) identify the impact of such barriers on access to capital and credit for Native American populations; and (3) to submit a report to the President and Congress with the findings of the study, recommendations to any necessary statutory and regulatory changes to existing Federal programs, and policy recommendations for community development financial institutions, insured depository institutions, secondary market institutions, and private sector capital institutions. In conjunction with the study, the Fund will develop an action plan to determine better ways for accessing credit and lending for Native American communities. This action plan will be developed through a series of workshops in cooperation with Tribal and private sector participation.
- **Handbook on “American Indian Reservations and Trust Areas.”** Commerce’s Economic Development Administration (EDA) will update this publication, which is an important resource for persons interested in doing business on reservations. The handbook provides valuable economic data on all American Indian and Alaska Native communities. Over 5,000 copies of the 1996 version have been distributed to date. EDA also will make the existing handbook available on its web site by March, 1999.
- **Implementation of One-Stop Mortgage Center Initiative.** Increasing home-ownership opportunities and access to capital in American Indian and Alaska Native communities was recognized by President Clinton as an integral part of economic development. In early August, the President issued an Executive Order tasking HUD and the Department of Treasury to partner with tribal governments, pertinent federal agencies and private

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partners, to initiate a pilot project to streamline the mortgage lending process in Indian country. Work is underway on the selection and start-up of the pilot projects.

- **Protection of Native American Intellectual Property.** Commerce's Patent and Trademark Office (PTO) proposes to conduct a workshop on how to protect intellectual property through obtaining a patent or trademark. The workshop is timely in light of legislation recently signed by President Clinton that directs PTO to study the protection of official tribal symbols from trademark infringement. The workshop would be held in conjunction with the annual conference of the American Indian Science and Engineering Society.
  
- **Study on Tribal Technology Infrastructure.** Recognizing the importance of ensuring that Indian communities fully participate in the new information economy, President Clinton's August 6 Memorandum directed the Commerce Department to conduct a study on the state of infrastructure technology needs. EDA will conduct the study, which is due for completion by May, 1999. In addition, Commerce is exploring in general how to help rural and urban distressed communities with a technology-based economic development strategy, including physical infrastructure and upgrading the skills of the local workforce.

#### **IV. GOING FORWARD: IDENTIFYING AND ADDRESSING GAPS**

In order to address the on-going need for improved Federal coordination, the Subcommittee will continue to work on a regular basis to identify and address any gaps in the delivery of economic development information and assistance to Indian country. As part of its deliberative process, the Subcommittee will consider whether administrative or legislative remedies are required to create new authority for, or remove barriers to, improving Federal tribal economic development efforts. For example, in April, 1998, Senator Ben Nighthorse Campbell introduced S. 2010, the "Native American Business Development, Trade Promotion and Tourism Act of 1998." The BIA's FY 2000 proposal for a Native American Economic Development Access Center is designed, in part, to address the concerns raised by the legislation.

An important part of the Subcommittee's on-going efforts will involve building partnerships with national organizations, such as the National Congress of American Indians and the National Indian Business Association, in order to identify gaps and solutions in the provision of Federal economic development assistance and to help identify specific tribal educational needs (e.g., how to do bond structurings).

#### **V. CLOSING**

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As a result of the President's Memorandum, and the work of the Subcommittee to date, we are entering a new era of Federal cooperation in the area of Indian economic development. There is a renewed sense of excitement and urgency about building upon the progress already made at the *Building Economic Self-Determination in Indian Communities* conference and moving in a direction that will ensure that tribal communities reap the greatest benefits from Federal economic development efforts for generations to come. Under the auspices of The White House Domestic Policy Council Working Group on American Indians and Alaska Natives, and in partnership with the tribes, Indian-owned businesses, the private sector, and non-profit organizations, the members of the Subcommittee stand committed to the goals outlined in this report and, ultimately, to bringing access to Federal economic development programs and initiatives to a new and unprecedented level throughout Indian country.

**APPENDIX B**

**Bureau of Indian Affairs  
U.S. Department of Interior**

**Outline of the FY 2000 Budget Proposal for a  
Native American Economic Development Access Center**

Prospective clients would interface with the Center through a number of ways: (1) an Internet web page; (2) direct telephone technical assistance via a toll-free 800-number; (3) on-site community interaction with business specialists; (4) printed literature; and (5) documentation and instructional CDs. Incoming inquiries would receive almost immediate feedback and response. To make the service easier to use, the center would provide information and technical assistance on a topical basis, so that prospective clients do not need to know the name of a specific agency or program before utilizing the service. Specifically, the Center would have the following components:

**Internet resources** – The development of a website that would house a **comprehensive inventory of available federal programs** with detailed descriptions of how they may be used by the Indian community. The database will include a user-friendly search engine that would permit users to clearly define their interests and the type of assistance they are seeking in order to better focus their attention to Federal programs that can provide financial and technical assistance. Each participating agency would have access to the BIA-operated web site where they could enter and update the descriptions of all operating programs on a regular basis.

An **online “ask the expert” module** which permits users to ask specific questions about federal programs, their use and general questions about economic ventures and opportunities in Indian Country. Questions will be received in one central site (the Bureau of Indian Affairs) and transmitted via e-mail to the appropriate federal agency for direct answering. Monitoring to ensure that questions are responded to in a timely manner will be conducted by the central web master. A permanent record of incoming questions will be maintained and used to develop user profiles and guide future program efforts.

The web site will maintain a **library of on-line resources**, including links to other Federal agency web sites that include economic development information relevant to Indian Country as well as other private, non-profit information resources.

**Telephone Assistance** – Because many people do not yet have access to Internet resources, an **“800” number** will be established and widely advertised for the purpose of providing direct discussions with Tribes, Indian individuals and others with questions on doing business in Indian Country. Calls will come into a central site (Bureau of Indian Affairs) and either will be

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answered directly or forwarded to an appropriate party at another federal entity where a more precise answer may be found. A database will be created to record general information regarding incoming calls and the manner in which they were answered. The “800” line would be open from 9:00 a.m. EST until 8:00 p.m. EST to ensure that coverage is available for all time zones.

***On-site Technical Assistance*** - In-depth technical assistance is usually best provided in face-to-face communications. However, many tribes and Indian individuals do not have access to local community resources to assist them in their business development efforts. An effort to provide for more direct technical assistance by knowledgeable federal and private resources can greatly enhance the potential for new business ventures. As outlined in the report, the center will work to promote closer cooperation and information-sharing between SBA’s and MBDA’s tribal business information centers and organize a series of on-site “Business Deals on Wheels” seminars.

***Printed Materials*** - Each federal agency with programs which can assist economic development activities will provide **informational brochures, pamphlets, etc.**, to the BIA’s Center from which the public may request general information (more specific requests such as for regulations would be forwarded to the appropriate agency). A written version of the website containing federal program inventory would be developed so that persons without Internet access may also be able to have access to important Federal program information.

***Instructional CD ROMs*** - Where appropriate, federal agencies will seek to place large volumes of written materials, forms, application criteria, etc., on CDs which can be made available to Tribes and individual Indians. CDs are a more efficient method for distribution of large quantities of written information. **Computer-based instructional CDs** also may be developed, which can be used as learning tools on how to conduct business in Indian Country, how to develop business plans for Indian entrepreneurs and Tribes, and other related topics. The BIA’s “*Sharing Our Dream – Doing Business in Indian Country*” is an excellent example of how CD’s can be used by tribes in their marketing and other business-related efforts. Additional titles that could be developed by the center include:

- Creating a business plan for small businesses
- Sample legal documents for Tribal governments
- Processing leases for homeownership (in development)
- Best practices in Indian economic development

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 1-DEC-1998 14:12:44.00

SUBJECT: Re: Is this broad wearing a spiked colar?

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

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

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

TEXT:

Unable to convert ARMS\_EXT:[MESSAGE.D78]MAIL46189453K.326

The following is a HEX dump of the file:

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 2-DEC-1998 10:46:51.00

SUBJECT: stem cell -- press guidance

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

READ:UNKNOWN

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 11/30/98 09:35  
PM -----

Jeffrey M. Smith  
12/02/98 10:28:43 AM  
Record Type: Record

To: Christopher C. Jennings/OPD/EOP, Elena Kagan/OPD/EOP, Holly L.  
Gwin/OSTP/EOP, Clifford J. Gabriel/OSTP/EOP  
cc: Nanda Chitre/WHO/EOP  
Subject: stem cell -- press guidance

Chris -- Nanda Chitre has requested press guidance on the Varmus testimony by 11:30 a.m. Pasted below is a "placeholder" because Varmus is currently testifying as we speak. We'd appreciate having the benefit of your edits and suggestions.

Rachel Levinson is at the hearing now and is expected to report in shortly. A key issue of press interest is whether Dr. Varmus will say that the statute does or does not permit NIH-funded scientists to use some of the stem cells that were produced by the scientists on the second panel. DHHS General Counsel has not reached a decision on this point and Dr. Varmus' written testimony does not answer the question, and he will probably be pressed on the issue.

It may make sense to pass this current version along to Nanda -- with your edits included -- and then, shortly before noon, update the Q&A section in light of what actually transpired this morning's hearing.

## HUMAN STEM CELL RESEARCH SENATE HEARING

December 2, 1998

*CONTEXT: Dr. Harold Varmus, Director of the National Institutes of Health testifies today before the Senate Labor, HHS Appropriations Subcommittee. The subject of the hearing is human stem cell research.*

### General

Dr. Varmus will appear as the first witness, followed by the second panel including Drs. James Thomson (University of Wisconsin), John Gearhart (Johns Hopkins University) and Michael West (Advanced Cell Technology, Inc), the scientists associated with three experiments reported recently in which human stem cells were produced from human embryos, fetal tissue, and a human somatic cell fused to a cow egg, respectively. A third panel will be comprised of ethicists including Dr. Arthur Caplan (University of Pennsylvania).

Dr. Varmus will describe the potential scientific and medical benefits of research using human stem cells including the development of treatments for cancer, heart disease, diabetes, Parkinson's and Alzheimer's disease, stroke, burns, and arthritis. Additionally, Dr. Varmus will discuss some of the ethical issues raised by human stem cell research and will reaffirm his commitment to the President's 1994 ban on the use of NIH funds to create human embryos for research purposes.

Beginning in FY 96, annual Congressional appropriations language has extended beyond the President's ban in forbidding research in which an embryo is knowingly discarded, destroyed or exposed to greater than minimal risk. Patient advocacy groups and scientific societies have written Subcommittee Chairman Sen. Specter seeking reversal of the Congressional ban and supporting stem cell research.

**Q. What is the Administration's view on human stem cell research?**

**A. We are told that human stem cell research has great promise, and we are hopeful that these predictions will bear out. Nevertheless, there are a number of ethical, medical and legal issues that need to be sorted out before a policy decision can be made. The President has asked his National Bioethics Advisory Commission to undertake a thorough review of the issues associated with human stem cell research, balancing all the ethical and medical considerations. The Commission's report will assist in defining our next steps.**

**Q. What is the Administration's view on the Congressional ban on Federally-funded human embryo research?**

**A. Given the dynamic nature of the science and how that science shapes our ethical understanding, we believe the President's 1994 directive banning the use of Federal funds for the creation of human embryos for research provides appropriate restrictions. Each year, the President's budget has proposed deleting the broader Congressional ban and has objected to addressing this issue in statute.**

**Q. Was public funding used to support this research?**

**A. No. The human stem cell research discussed at today's Senate hearing was privately funded.**

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME: 2-DEC-1998 18:40:11.00

SUBJECT: RECEIVED: Medal of Freedom

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

TEXT:  
RETURN RECEIPT

Your Document:  
Medal of Freedom  
was successfully received by:  
CN=Elena Kagan/OU=OPD/O=EOP  
at:  
12/01/98 05:32:06 AM

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 2-DEC-1998 09:54:16.00

SUBJECT: Re: REMINDER: CoS Mission Statements Requests are due Today

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

I haven't looked at what paul gave me yet.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 3-DEC-1998 12:09:46.00

SUBJECT: OMB Request for Views on S2383 Children's Act for Responsible Employment (CARE)

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

READ:UNKNOWN

TEXT:

please print

----- Forwarded by Elena Kagan/OPD/EOP on 12/01/98 11:01 PM -----

From: Melissa N. Benton on 12/03/98 12:00:32 PM

Record Type: Record

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

cc: Debra J. Bond/OMB/EOP

Subject: OMB Request for Views on S2383 Children's Act for Responsible Employment (CARE) Act

This is a reminder that your views on the subject bill are due.

Please provide any comments no later than 2 p.m. today. Call (5-7887) if you have any comments or questions. Thanks!

----- Forwarded by Melissa N. Benton/OMB/EOP on 12/03/98 11:57 AM -----

From: Melissa N. Benton on 11/27/98 09:55:17 AM

Record Type: Record

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

cc:

Subject: OMB Request for Views on S2383 Children's Act for Responsible Employment (CARE) Act

Total Pages: \_\_\_\_

LRM ID: MNB246  
EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
Washington, D.C. 20503-0001

Friday, November 27, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

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

OMB CONTACT: Melissa N. Benton

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

SUBJECT: OMB Request for Views on S2383 Children's Act for Responsible Employment (CARE) Act



\_\_\_\_\_ (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

Message Sent

To: \_\_\_\_\_

Barry White/OMB/EOP@EOP  
 Larry R. Matlack/OMB/EOP@EOP  
 Debra J. Bond/OMB/EOP@EOP  
 Sarah S. Lee/OMB/EOP@EOP  
 Robert G. Damus/OMB/EOP@EOP  
 William H. White Jr./WHO/EOP@EOP  
 Stuart Shapiro/OMB/EOP@EOP  
 Daniel J. Chenok/OMB/EOP@EOP  
 Sarah Rosen/OPD/EOP@EOP  
 Elena Kagan/OPD/EOP@EOP  
 Kate P. Donovan/OMB/EOP@EOP  
 Karen Tramontano/WHO/EOP@EOP  
 Janet R. Forsgren/OMB/EOP@EOP

Message Sent

To: \_\_\_\_\_

dol-sol-leg @ dol.gov @ inet  
 justice.lrm @ usdoj.gov @ inet  
 usdaobpaleg @ obpa.usda.gov @ inet  
 Sarah S. Lee/OMB/EOP  
 Robert G. Damus/OMB/EOP  
 William H. White Jr./WHO/EOP  
 Stuart Shapiro/OMB/EOP  
 Daniel J. Chenok/OMB/EOP  
 Sarah Rosen/OPD/EOP  
 Elena Kagan/OPD/EOP  
 Karen Tramontano/WHO/EOP

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

TEXT:

S 2383 IS

105th CONGRESS

2d Session

S. 2383

To amend the Fair Labor Standards Act of 1938 to reform the provisions relating to child labor.

IN THE SENATE OF THE UNITED STATES

July 30, 1998

Mr. HARKIN (for himself, Mr. KENNEDY, MR. KERRY, and Ms. MOSELEY-BRAUN) introduced the following bill; which was read twice and referred to the Committee on Labor and Human Resources

-----  
A BILL

To amend the Fair Labor Standards Act of 1938 to reform the provisions relating to child labor.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

## SECTION 1. SHORT TITLE; REFERENCE.

(a) SHORT TITLE- This Act may be cited as the 'Children's Act for Responsible Employment' or the 'CARE Act'.

(b) REFERENCE- Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Fair Labor Standards Act of 1938 (29 U.S.C. 201 et seq.).

## SEC. 2. AGRICULTURAL EMPLOYMENT.

Section 13(c) (29 U.S.C. 213(c)) is amended--

(1) by striking paragraph (1) and inserting the following:

'(1) The provisions of section 12 relating to child labor shall not apply to any employee employed in agriculture outside of school hours for the school district where such employee is living while he or she is so employed, if such employee is employed by his or her parent or legal guardian, on a farm owned or operated by such parent or legal guardian.'; and

(2) by striking paragraphs (2) and (4).

## SEC. 3. YOUTH PEDDLING.

(a) FAIR LABOR STANDARDS ACT COVERAGE-

(1) FINDING- The last sentence of section 2(a) (29 U.S.C. 202(a)) is amended by inserting after 'households' the following: ', and the employment of employees under the age of 16 years in youth

peddling,'.

(2) DEFINITION- Section 3 (29 U.S.C. 203) is amended by adding at the end the following:

`(y) `Youth peddling' means selling goods or services to customers at their residences, places of business, or public places such as street corners or public transportation stations. `Youth peddling' does not include the activities of persons who, as volunteers, sell goods or services on behalf of not-for-profit organizations.'

(b) DEFINITION OF OPPRESSIVE CHILD LABOR- Section 3(1) (29 U.S.C. 203(1)) is amended in the last sentence by insert after `occupations other than' the following: `youth peddling,'.

(c) PROHIBITION OF YOUTH PEDDLING- Section 12(c) (29 U.S.C. 212(c)) is amended by inserting after `oppressive child labor in commerce or in the production of goods for commerce' the following: `, or in youth peddling,'.

#### SEC. 4. CIVIL AND CRIMINAL PENALTIES FOR CHILD LABOR VIOLATIONS.

(a) CIVIL MONEY PENALTIES- Section 16(e) (29 U.S.C. 216(e)) is amended in the first sentence--

(1) by striking `\$10,000' and inserting `\$15,000';

(2) by inserting after `subject to a civil penalty of' the following: `not less than \$500 and'.

(b) CRIMINAL PENALTIES- Section 16(a) (29 U.S.C. 216(a)) is amended by adding at the end the following: `Any person who violates the provisions of section 15(a)(4), concerning oppressive child labor, shall on conviction be subject to a fine of not more than \$15,000, or to imprisonment for not more than 5 years, or both, in the case of a willful or repeat violation that results in or contributes to a fatality of a minor employee or a permanent disability of a minor employee, or a violation which is concurrent with a criminal violation of any other provision of this Act or of any other Federal or State law.'

#### SEC. 5. GOODS TAINTED BY OPPRESSIVE CHILD LABOR.

Section 12(a) (29 U.S.C. 212(a)) is amended by striking the period at the end and inserting the following: `: And provided further, that the Secretary shall determine the circumstances under which such goods may be allowed to be shipped or delivered for shipment in interstate commerce.'

#### SEC. 6. COORDINATION.

Section 4 (29 U.S.C. 204) is amended by adding at the end the following:

`(g) The Secretary shall encourage and establish closer working relationships with non-governmental organizations and with State and local government agencies having responsibility for administering and enforcing labor and safety and health laws. Upon the request of the Secretary, and to the extent permissible under applicable law, State and local government agencies with information regarding injuries and deaths of employees shall submit such information to the Secretary for use as appropriate in the enforcement of section 12 and in the promulgation and interpretation of the regulations and orders

authorized by section 3(1). The Secretary may reimburse such State and local government agencies for such services.'

SEC. 7. REGULATIONS AND MEMORANDUM OF UNDERSTANDING.

(a) REGULATIONS- The Secretary of Labor shall issue such regulations as are necessary to carry out this Act and the amendments made by this Act.

(b) MEMORANDUM OF UNDERSTANDING- The Secretary of Labor and the Secretary of Agriculture shall, not later than 180 days after the date of enactment of this Act, enter into a memorandum or understanding to coordinate the development and enforcement of standards to minimize child labor.

SEC. 8. AUTHORIZATION.

There is authorized to be appropriated to the Secretary of Labor such sums as may be necessary for to carry out this Act and the amendments made by this Act.

END

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 3-DEC-1998 19:14:00.00

SUBJECT: Meeting on Choice Issues

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

READ:UNKNOWN

TEXT:

Unable to convert ARMS\_EXT:[MESSAGE.D89]MAIL46716093G.326

The following is a HEX dump of the file:

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 3-DEC-1998 12:09:47.00

SUBJECT: Request for Views on HR1870 Young American Workers' Bill of Rights

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

TEXT:  
please print

----- Forwarded by Elena Kagan/OPD/EOP on 12/01/98 11:02  
PM -----

From: Melissa N. Benton on 12/03/98 12:03:04 PM  
Record Type: Record

To: See the distribution list at the bottom of this message  
cc: Debra J. Bond/OMB/EOP  
Subject: Request for Views on HR1870 Young American Workers' Bill of Rights

This is a reminder that your views on the subject bill are due.

Please provide any comments no later than 2 p.m. today. Call (5-7887) if you have any comments or questions. Thanks!

----- Forwarded by Melissa N. Benton/OMB/EOP on 12/03/98  
12:00 PM -----

From: Melissa N. Benton on 11/27/98 09:58:28 AM  
Record Type: Record

To: See the distribution list at the bottom of this message  
cc: See the distribution list at the bottom of this message  
Subject: Request for Views on HR1870 Young American Workers' Bill of Rights

NOTE: The bill is attached following the LRM.  
Total Pages: \_\_\_\_\_

LRM ID: MNB245  
EXECUTIVE OFFICE OF THE PRESIDENT  
OFFICE OF MANAGEMENT AND BUDGET  
Washington, D.C. 20503-0001

Wednesday, November 25, 1998

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

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

OMB CONTACT: Melissa N. Benton  
PHONE: (202)395-7887 FAX: (202)395-6148

SUBJECT: Request for Views on HR1870 Young American Workers' Bill of Rights

DEADLINE: Noon Wednesday, December 2, 1998

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

COMMENTS:  
DISTRIBUTION LIST

AGENCIES:

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- 61-JUSTICE - L. Anthony Sutin - (202) 514-2141
- 7-Agriculture - Marvin Shapiro (LRMs & EBs) - (202) 720-1516
- 25-COMMERCE - Michael A. Levitt - (202) 482-3151
- 52-HHS - Sondra S. Wallace - (202) 690-7760
- 51-General Services Administration - William R. Ratchford - (202) 501-0563
- 30-EDUCATION - Jack Kristy - (202) 401-8313
- 128-US Trade Representative - Fred Montgomery - (202) 395-3475
- 107-Small Business Administration - Mary Kristine Swedin - (202) 205-6700

EOP:

- Barry White
- Larry R. Matlack
- Debra J. Bond
- Sarah S. Lee
- Robert G. Damus
- William H. White Jr.
- Stuart Shapiro
- Daniel J. Chenok
- Steven M. Mertens
- Sarah Rosen
- Elena Kagan
- Karen Tramontano
- Kate P. Donovan
- Janet R. Forsgren

LRM ID: MNB245 SUBJECT: Request for Views on HR1870 Young American Workers' Bill of Rights

RESPONSE TO  
LEGISLATIVE REFERRAL  
MEMORANDUM

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

You may also respond by:

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

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

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

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

\_\_\_\_\_ (Agency)

\_\_\_\_\_ (Telephone)

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

\_\_\_\_\_ Concur

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

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

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

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

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

Message Sent

To: \_\_\_\_\_  
 Barry White/OMB/EOP@EOP  
 Larry R. Matlack/OMB/EOP@EOP  
 Debra J. Bond/OMB/EOP@EOP  
 Sarah S. Lee/OMB/EOP@EOP  
 Robert G. Damus/OMB/EOP@EOP  
 William H. White Jr./WHO/EOP@EOP  
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 Daniel J. Chenok/OMB/EOP@EOP  
 Steven M. Mertens/OMB/EOP@EOP  
 Sarah Rosen/OPD/EOP@EOP  
 Elena Kagan/OPD/EOP@EOP  
 Karen Tramontano/WHO/EOP@EOP  
 Kate P. Donovan/OMB/EOP@EOP  
 Janet R. Forsgren/OMB/EOP@EOP

Message Copied

To: \_\_\_\_\_  
 dol-sol-leg@dol.gov @ inet  
 justice.lrm@usdoj.gov @ inet  
 usdaobpaleg@obpa.usda.gov @ inet  
 clrm@doc.gov @ inet  
 lrm@os.dhhs.gov @ inet  
 ca.legislation@gsa.gov @ inet  
 ogc\_legislation@ed.gov @inet  
 cla@sba.gov @ inet

Message Sent

To: \_\_\_\_\_  
 dol-sol-leg @ dol.gov @ inet  
 justice.lrm @ usdoj.gov @ inet  
 usdaobpaleg @ obpa.usda.gov @ inet  
 lrm @ os.dhhs.gov @ inet  
 ca.legislation @ gsa.gov @ inet

Sarah S. Lee/OMB/EOP  
 Robert G. Damus/OMB/EOP  
 William H. White Jr./WHO/EOP  
 Steven M. Mertens/OMB/EOP  
 Sarah Rosen/OPD/EOP  
 Elena Kagan/OPD/EOP  
 Karen Tramontano/WHO/EOP  
 velma.taylor @ usdoj.gov @ inet

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

TEXT:

HR 1870 IH

105th CONGRESS

1st Session

H. R. 1870

To amend the Fair Labor Standards Act of 1938 to reform the provisions relating to child labor.

IN THE HOUSE OF REPRESENTATIVES

June 12, 1997

Mr. LANTOS (for himself, Mr. CAMPBELL, Mr. ACKERMAN, Mr. BONIOR, Mr. BROWN of California, Ms. CARSON, Mr. DAVIS of Illinois, Mr. DELLUMS, Ms. ESHOO, Mr. EVANS, Mr. FALEOMAVAEGA, Mr. FOGLIETTA, Mr. FRANK of Massachusetts, Mr. FROST, Mr. GONZALEZ, Mr. GUTIERREZ, Mr. HINCHEY, Mr. JEFFERSON, Mr. MANTON, Mr. MILLER of California, Ms. NORTON, Mr. OBERSTAR, Mr. OLVER, Mr. OWENS, Mr. RANGEL, Mr. SANDERS, Mr. SCHUMER, Mr. TIERNEY, Mr. TORRES, Mr. VENTO, Ms. WOOLSEY, Ms. VELAZQUEZ, and Mr. YATES) introduced the following bill; which was referred to the Committee on Education and Workforce

-----  
 A BILL

To amend the Fair Labor Standards Act of 1938 to reform the provisions relating to child labor.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE: REFERENCE.

(a) SHORT TITLE- This Act may be cited as the 'Young American Workers' Bill of Rights'.

(b) REFERENCE- Whenever in this Act an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Fair Labor Standards Act of 1938.

SEC. 2. REPORTING AND RECORDKEEPING.

(a) CHILD-LABOR LAWS- Section 12 (29 U.S.C. 212) is amended by adding at the end the following new subsection:

`(e) (1) The Secretary and the United States Census Bureau shall compile data from respective State employment security agencies in all the States (A) on the types of industries and occupations in which children under the age of 18 are employed and on the types of industries and occupations in which children who are 18 and full-time students in a high school are employed, and (B) on cases in which it was determined that minors were employed in violation of this section. The first such compilation shall be completed not later than 2 years after the date of enactment of the Young American Workers' Bill of Rights and each subsequent compilation shall be completed not later than 3 years thereafter.

`(2) If a minor in the course of employment suffers death or an injury or illness resulting in lost work time of at least 1 working day, not later than 5 days after the death, injury, or illness, the employer of the minor shall provide to the State agency a written description of the death, injury, or illness.

`(3) The Secretary of Health and Human Services, in conjunction with the Secretary of Labor, shall issue an annual report on the status of child labor in the United States and its attendant safety and health hazards.'.

### SEC. 3. CERTIFICATES OF EMPLOYMENT.

Section 12 (29 U.S.C. 212) is amended by adding at the end the following new subsection:

`(e) (1) As used in this subsection, the term `parents' means the biological parents of a minor or other individual standing in loco parentis to a minor and the term `minor' means an individual who is under the age of 18 and who has not received a high school diploma or its equivalent or who is 18 and enrolled full-time in a high school.

`(2) No employer shall employ a minor unless the minor possesses a valid certificate of employment issued in accordance with this subsection.

`(3) The Governor of a State shall designate a State agency to issue certificates of employment to minors in the State. The agency shall make available, on request, a form for the application described in paragraph (4) and shall make available, as part of the certification process, materials describing applicable Federal requirements governing the employment of minors and the minor's rights under such requirements.

`(4) To be eligible to receive a certificate of employment, a minor must submit to the appropriate State agency an application that contains--

`(A) the name and address of the minor;

`(B) proof of age of the minor;

`(C) if the minor is under the age of 18 or is age 18 and enrolled full-time in a high school--

`(i) a written statement by the parents or legal guardian of the minor that the parents grant consent for employment of the minor; and

`(ii) a written verification from the minor's school that

the minor is meeting at least the minimum school attendance requirements established by the State and that such employment will not interfere with the schooling of the minor; and

`(D) the employer's name, address, signature; and

`(E) with respect to the employment--

`(i) a statement on the nature of the work to be performed;

`(ii) the daily and weekly hours, and

`(iii) the times of day in which the work is to be performed.

`(5) On receipt of an application under paragraph (4), a State agency shall issue to the minor--

`(A) a certificate of employment, if the requirements of paragraph (4) are met; or

`(B) a statement of the denial of a certificate of employment (including the reasons for the denial), if the requirements of paragraph (4) are not met.

`(6) A certificate of employment issued to a minor under this subsection shall be valid for 1 year after the date of issuance of the certificate or for the duration of the permitted employment, whichever is shorter.

`(7) A certificate of employment issued to a minor under this subsection shall indicate--

`(A) the name, address, and date of birth of the minor;

`(B) a minor will not be employed more than 3 hours per day or more than 15 hours per week and shall be prohibited from working before 7 a.m. and after 7 p.m. when school is in session if such minor is between 14 and 16 years of age and will not be employed more than 4 hours per school day or more than 20 hours per week and shall be prohibited from working before 6 a.m. and after 10 p.m. when school is in session if such minor is 16, 17, or 18 years of age and a full-time student enrolled in a high school; and

`(C) the name, address, and telephone number of the State agency that may be contacted for additional information concerning applicable Federal requirements governing the employment of minors.

`(8) The State agency shall provide a copy of a certificate of employment issued to a minor who is not older than the age of 18 to the parent of the minor who granted consent pursuant to paragraph (4) and to the local school district where the minor is enrolled.

`(9) If an employer employs a minor, not later than 14 days after the date of the commencement of employment of the minor, the employer shall provide to the State agency written notice of the name and occupation of the minor and the number of the certificate of employment issued to the minor.

`(10) Each employer shall post a copy of the provisions of this Act

relating to child labor at each premise of a worksite where one or more minors is employed.

(11) A State agency shall report annually to the Secretary concerning certificates of employment issued under this subsection. The agency shall include such information as the Secretary requires (including information on the number of deaths and injuries of minors reported pursuant to subsection (f)).'

#### SEC. 4. REVISIONS OF ORDERS AND REGULATIONS.

##### (a) ORDERS-

(1) In the administration of the Fair Labor Standards Act of 1938, the Secretary of Labor shall make the following revisions in the Secretary's child labor orders published in subpart E of part 570 of title 29, Code of Federal Regulations:

(A) The exemption provided in Order No. 2 (29 C.F.R. 570.52) shall apply to minors who are at least 18 years of age and to driving that is secondary and incidental to the minor's main occupation. Such exemption would be limited to 20 percent of the minor's work in any workday and may not exceed 5 percent of the minor's work in any workweek.

(B) Order No. 10 (29 C.F.R. 570.61) shall apply with respect to restaurants and fast food establishments. Such order shall prohibit minors who are under the age of 18 or who are 18 and are enrolled full-time in a high school from cleaning any machinery irrespective of who has disassembled the machinery.

(2) In the administration of the Fair Labor Standards Act of 1938, the Secretary of Labor shall find and declare that poultry processing, seafood processing, paper baling, power driven meat slicing, and pesticide handling are occupations that are particularly hazardous for the employment of minors for purposes of section 3(1) of the Fair Labor Standards Act of 1938.

(b) CHILD LABOR REGULATIONS- Under child labor regulation No. 3 (subpart C of 29 C.F.R. 570 et seq.)--

(1) individuals under 16 shall be prohibited from making door-to-door sales for profit,

(2) individuals under 16 shall be prohibited from using fryers, baking equipment, and cooking equipment in food service establishments, and

(3) strike out in section 570.34(b)(5) (except at soda fountains, lunch counters, snack bars, or cafeteria serving counters)'. .

#### SEC. 5. CRIMINAL PENALTIES FOR CHILD LABOR VIOLATIONS.

(a) WILLFUL VIOLATIONS THAT CAUSE INJURY OR DEATH- Section 16 (29 U.S.C. 216) is amended by adding at the end the following new subsection:

(f) Any person who willfully violates the provisions of section 12, relating to child labor, or any regulation

issued under such section, shall, on conviction be punished--

`(1) in the case of a willful violation that causes serious bodily injury to an employee described in section 3(1) but does not cause death to the employee, by a fine in accordance with section 3571 of title 18, United States Code, or by imprisonment for not more than 5 years, or by both, except that if the conviction is for a willful violation committed after a first conviction of the person, the person shall be punished by a fine in accordance with section 3571 of such title 18 or by imprisonment for not more than 10 years, or by both; or

`(2) in the case of a willful violation that causes death to an employee described in section 3(1), by a fine in accordance with section 3571 of such title 18 or by imprisonment for not more than 10 years, or by both, except that if the conviction is for a willful violation committed after a first conviction of the person, the person shall be punished by a fine in accordance with section 3571 of such title 18 or by imprisonment for not more than 20 years, or by both.'.

(b) NO PRIOR OFFENSE PREREQUISITE FOR CHILD LABOR VIOLATION- The second sentence of section 16(a) is amended by inserting before the period at the end the following: `, except that this sentence shall not apply to a violation of section 12'.

#### SEC. 6. CIVIL PENALTIES FOR CHILD LABOR VIOLATIONS.

Section 16(e) (29 U.S.C. 216(e)) is amended--

(1) by redesignating paragraphs (1), (2), and (3) as subparagraphs (A), (B), and (C), respectively;

(2) by inserting `(1)' after the subsection designation;

(3) by adding at the end the following new paragraphs:

`(2) Any person who willfully violates the provisions of section 12, relating to child labor, or any regulation issued under such section, on more than one occasion, shall, on such additional violation, be ineligible--

`(A) for any grant, contract, or loan provided by an agency of the United States or by appropriated funds of the United States, for 5 years after the date of such additional violation;

`(B) to pay the training wage authorized by section 6 of the Fair Labor Standards Amendments of 1989 (29 U.S.C. 206 note); or

`(C) to employ a minor for a period of 5 years from the date of such violation.'.

#### SEC. 7. CIVIL ACTIONS FOR CHILD LABOR VIOLATIONS.

Section 16 (29 U.S.C. 216), as amended by section 4, is amended by adding at the end the following:

`(g) Any employer who violates section 12 shall be liable for such legal or equitable relief as may be appropriate. An action to recover such relief may be brought against any employer in any Federal or State court of competent jurisdiction by any employee subject to the protections of section 12 or by the employee's survivors. The court in such an action shall, in addition to any other judgment awarded to the plaintiff, allow a reasonable attorney's fee to be paid by the

defendant and costs of the action. If the employee or the employee's survivors obtain a judgment under this subsection and also seek recovery for the same violation through State worker's compensation, this subsection does not preclude a State from choosing to offset recovery obtained under this subsection against recovery provided through State worker's compensation.'

SEC. 8. COORDINATION.

(a) IN GENERAL- The Secretary of Labor shall establish and encourage closer working relationships among Federal and State agencies having responsibility for enforcing labor, safety and health, and immigration laws.

(b) REFERRALS-

(1) The Secretary of Labor shall establish a referral system under which employees engaged in the enforcement of the Fair Labor Standards Act of 1938 and the Occupational Safety and Health Act of 1970 shall--

(A) exchange information about suspected violators of the Acts and monitor the results of referrals to each other, and

(B) provide basic training to each other's staffs concerning the requirements of such Acts.

(2) The Secretary of Labor shall require employees engaged in the enforcement of the Fair Labor Standards Act of 1938 and the Occupational Safety and Health Act of 1970 to establish a referral system with--

(A) employees of the Immigration and Naturalization Service engaged in the enforcement of the Immigration and Nationality Act, and

(B) employees of Departments of Labor of the States engaged in the enforcement of State minimum wage and occupational safety and health laws.

The Immigration and Naturalization Service and the State Departments of Labor shall each be encouraged by the Secretary of Labor to establish information exchanges and, to the extent practicable, provided training to each other's staffs concerning the requirements of the Acts enforced by the respective agencies.

(c) ADVICE FROM PRIVATE AND PUBLIC SECTORS- The Secretary shall seek information and advice from representative elements of the private sector and the non-Federal governmental sector with respect to the provisions of the Fair Labor Standards Act of 1938 and corresponding regulations as they pertain to the employment of minors.

(d) ADVISORY COMMITTEE- The Secretary shall establish an Advisory Committee for Child Labor to provide overall policy advice on matters referred to in subsection (c). The Committee shall be composed of not less than 21 individuals, and shall include representatives of government, labor, industry, education, agriculture, health professions, small business, youth, service industries, retailers, consumer interests, human rights, child welfare, parent groups, and the general public. The Committee shall meet quarterly at the call of the Secretary or upon the call of a majority of the Committee, a quorum being present. The Chairperson of the Committee shall be elected by the Committee from among its members. Members

of the Committee shall be appointed by the President for a period of 4 years and may be reappointed for one or more additional periods. The Secretary shall make available to the Committee such staff, information, personnel, and administrative services and assistance as it may reasonably require to carry out its activities.

SEC. 9. PUBLICATION OF VIOLATORS.

(a) IN GENERAL- The Secretary of Labor shall publish and disseminate the names and addresses of each person who has willfully violated the provisions of section 12 of the Fair Labor Standards Act of 1938 relating to child labor or any regulation under such section and the types of violations committed by such person and shall distribute the publication regionally.

(b) NOTICE TO SCHOOL DISTRICTS- The Secretary shall post and otherwise make available to affected school districts the name of each employer who violates the provisions of section 12 of the Fair Labor Standards Act of 1938, relating to child labor, or any regulation issued under such section together with a description of the location and nature of the violation.

SEC. 10. COVERAGE.

The provisions of sections 12 and 16(e) of the Fair Labor Standards Act of 1938 shall apply to employers regardless of the annual dollar volume of sales whereby certain enterprises are exempted from coverage under such Act.

SEC. 11. PROTECTION OF MINORS WHO ARE MIGRANT OR SEASONAL AGRICULTURAL WORKERS.

(a) DEFINITION OF OPPRESSIVE CHILD LABOR- The first sentence of section 3(1) (29 U.S.C. 203(1)) is amended--

(1) by striking `or' before `(2)'; and

(2) by inserting before the semicolon the following: `, or (3) any employee under the age of 14 years is employed by an employer as a migrant agricultural worker (as defined in section 3(8) of the Migrant and Seasonal Agricultural Protection Act (29 U.S.C. 1802(8)) or seasonal agricultural worker (as defined in section 3(10) of such Act)';

(b) EXEMPTIONS- Section 13 (29 U.S.C. 213) is amended--

(1) in subsection (a)(6), by inserting before the semicolon at the end the following: `, except that this paragraph shall not apply to an employee described in section 3(1)(3)'; and

(2) in subsection (c)--

(A) in paragraph (1), by striking `Except as provided in paragraph (2) or (4)' and inserting `Except as provided in paragraph (2), (4), or (5)'; and

(B) by adding at the end the following new paragraph:

`(5) The provisions of section 12 relating to child labor shall apply to an employee described in section 3(1)(3).'

SEC. 12. REGULATIONS.

The Secretary of Labor shall issue such regulations as are necessary to carry out this Act and the amendments made by this Act.

SEC. 13. AUTHORIZATION.

There is authorized to be appropriated to the Secretary of Labor such sums as may be necessary for the additional costs resulting from the amendments made by sections 2 and 5.

END

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 3-DEC-1998 19:14:38.00

SUBJECT: Farm Safety Net - Final version

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

TEXT:

Unable to convert ARMS\_EXT:[MESSAGE.D97]MAIL46026093X.326

The following is a HEX dump of the file:

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

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

TEXT:

Unable to convert ARMS\_EXT:[ATTACH.D97]MAIL48026093Y.326 to ASCII,

The following is a HEX DUMP:

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

===== ATTACHMENT 2 =====

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

TEXT:

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The following is a HEX DUMP:

===== END ATTACHMENT 2 =====

===== ATTACHMENT 3 =====

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

TEXT:

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The following is a HEX DUMP:

===== END ATTACHMENT 3 =====

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 4-DEC-1998 16:05:25.00

SUBJECT: Re: Family Assessment

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

READ:UNKNOWN

TEXT:

Unable to convert ARMS\_EXT:[MESSAGE.D72]MAIL48848104N.326

The following is a HEX dump of the file:

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME: 4-DEC-1998 12:55:58.00

SUBJECT: RECEIVED: Re: charter schools guidance

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

READ:UNKNOWN

TEXT:

RETURN RECEIPT

Your Document:

Re: charter schools guidance

was successfully received by:

CN=Elena Kagan/OU=OPD/O=EOP

at:

12/02/98 11:45:22 PM

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME: 4-DEC-1998 19:18:17.00

SUBJECT: RECEIVED: Law School Template

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

READ:UNKNOWN

TEXT:

RETURN RECEIPT

Your Document:

Law School Template

was successfully received by:

CN=Elena Kagan/OU=OPD/O=EOP

at:

12/04/98 07:16:03 PM

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME: 7-DEC-1998 19:18:24.00

SUBJECT: RECEIVED: Teen Pregnancy/Birth Info For Daily Report

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

READ:UNKNOWN

TEXT:

RETURN RECEIPT

Your Document:

Teen Pregnancy/Birth Info For Daily Report  
was successfully received by:

CN=Elena Kagan/OU=OPD/O=EOP

at:

12/06/98 06:10:06 AM

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 7-DEC-1998 13:55:42.00

SUBJECT: WH Women's Welcome!

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

TEXT:  
schedule please

----- Forwarded by Elena Kagan/OPD/EOP on 12/06/98 12:47 AM -----

LESLIE  
BERNSTEIN  
12/07/98 09:06:24 AM

Record Type: Record

To: Jennifer M. Luray/WHO/EOP  
cc: See the distribution list at the bottom of this message  
Subject: WH Women's Welcome!

Message Copied

- To: \_\_\_\_\_
- Virginia Apuzzo/WHO/EOP
  - Rebecca M. Blank/CEA/EOP
  - Barbara Chow/OMB/EOP
  - Betty W. Currie/WHO/EOP
  - Lynn G. Cutler/WHO/EOP
  - Audrey T. Haynes/OVP @ OVP
  - Nancy V. Hernreich/WHO/EOP
  - Elena Kagan/OPD/EOP
  - Sally Katzen/OPD/EOP
  - Ann F. Lewis/WHO/EOP
  - Ellen M. Lovell/WHO/EOP
  - Capricia P. Marshall/WHO/EOP
  - Sylvia M. Mathews/OMB/EOP
  - Cheryl D. Mills/WHO/EOP
  - Linda L. Moore/WHO/EOP
  - Minyon Moore/WHO/EOP
  - Janet Murguia/WHO/EOP
  - Jennifer M. Palmieri/WHO/EOP
  - Maureen T. Shea/WHO/EOP
  - Stephanie S. Streett/WHO/EOP
  - Karen Tramontano/WHO/EOP
  - Amy Weiss/WHO/EOP
  - Katharine Button/WHO/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 7-DEC-1998 13:57:00.00

SUBJECT: Re: Toy recall

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

READ:UNKNOWN

TEXT:

no

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 7-DEC-1998 13:59:31.00

SUBJECT: Re: a recommendation for Mike's job

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

READ:UNKNOWN

TEXT:

sure, let's check it out

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-DEC-1998 12:49:52.00

SUBJECT: Food one pager

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

TEXT:  
you're printing all these out and collecting them, right?  
----- Forwarded by Elena Kagan/OPD/EOP on 12/08/98 12:50  
PM -----

Thomas L. Freedman  
12/08/98 12:05:33 PM  
Record Type: Record

To: Elena Kagan/OPD/EOP  
cc: Laura Emmett/WHO/EOP, Mary L. Smith/OPD/EOP  
Subject: Food one pager

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

TEXT:  
Unable to convert ARMS\_EXT:[ATTACH.D37]MAIL40493234D.326 to ASCII,  
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## Food Safety Initiative

**Policy Rationale and Cost:** Advancing food safety is one of the Administration's signature issues and this year's initiative would maintain our leadership in the area by working to establish a nationally integrated food safety system with Federal, state, and local authorities. The initiative includes measures by FDA, USDA and CDC.

**FDA:** The majority of FDA's request (\$25.6 million) would go toward expansion of their inspection and compliance capability. As part of its efforts to integrate efforts with non-federal agencies, FDA will enter into contracts and partnerships so that states will follow FDA guidelines and procedures. Among the tangible goals FDA states they could accomplish if the initiative were funded: for the first time in decades, FDA will ensure that every high risk food manufacturer in the United States is inspected at least once a year; for other food firms, inspections will be twice as often as today (from once every 8 years to once every 4 years) and for the first time ever, state and Federal inspection results will be shared, via an electronic connection, that will reduce overlapping efforts and greatly enhance the ability of those authorities to improve public health. The measure also boosts our international capability so that FDA will increase the number of international inspections from 100 to 250 and will conduct evaluations of foreign food production systems. In addition, FDA seeks \$9.0 million improving its traceback capabilities; \$6.9 million for new research programs and \$2.7 for risk assessment; and \$4.7 million in new education funding. (Cost: \$48.9 million over the FY99 request.)

**CDC:** The goal is to create a national system that provides comprehensive data on the occurrence of food-borne illness that can be used by agencies at every level to combat food-borne illness. The majority of the investment is targeted toward surveillance activities, specifically expanding the scope of FoodNet and the capacity of PulseNet to better capture pathogen DNA fingerprints of both *E. coli* O157:H7 and *Salmonella enteritidis* and include more state health departments in the network. This expanded surveillance network is the heart of our nation's food-borne disease early warning system. The current surveillance system does not provide adequate coverage of the US population. (Cost: \$18 million over the FY99 request.)

**USDA:** USDA complains that while OMB more than fully funded their initiative, they imposed \$473 million in user fees on FSIS and failed to provide a needed \$30.6 million for obligated salary increases and redeployment of inspectors. This is on top of a flat budget when the agency is trying to implement extensive new HACCP reforms. FSIS has very little discretionary money, since most is tied up in inspector salaries and other fixed costs. USDA has stated that OMB's failure to include the \$30.6 million will force them to shut down the inspection program during the last 9 days of the year or furlough over 300 employees. The Secretary has sent a letter complaining that the lack of salary funds effectively downsizes his inspection force and undercuts the commitment the President made to improve food safety and effectively regulate meat and poultry. (Cost: The salary increases and inspector redeployment cost \$30.6 million).

**Uncertainties:**

**USDA.** The USDA/OMB dispute on user fees is an old one, and USDA acknowledges they will probably lose again. USDA may suggest a compromise they think OMB might agree to: include the full funding request for FSIS in the budget (\$652 million) but elsewhere in the budget acknowledge that the Administration expects user fees to cover \$473 million of the cost. The argument being that currently Congress is not technically being requested to provide the actual amount the Administration and most observers think it really needs.

**Vetting.**

These proposals have been developed by the USDA, FDA, and CDC and explained to OMB. OSTP has also been involved in their development.

We have not consulted with consumer groups, but it seems likely they would strongly support the initiative. The groups have called us to support the idea that there be some new initiative, and to complain in general about user fees. It seems likely we will get significant flack for the user fees from Congress and consumer groups, especially if we have no new initiative.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-DEC-1998 19:16:17.00

SUBJECT: Tobacco Mtg Thurs at 11:00

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

READ:UNKNOWN

TEXT:

do you want to go?

----- Forwarded by Elena Kagan/OPD/EOP on 12/08/98 07:16  
PM -----

Cynthia A. Rice

12/08/98 07:08:52 PM

Record Type: Non-Record

To: Elena Kagan/OPD/EOP, Laura Emmett/WHO/EOP

cc:

Subject: Tobacco Mtg Thurs at 11:00

Bruce thought we should postpone this meeting when we thought it was the House Dem caucus. He sent me a note saying it was OK to go "but be careful" when he found out it was Dingell and Waxman. Elena you should definately come to this onè. Laura, can she still make it?

----- Forwarded by Cynthia A. Rice/OPD/EOP on 12/08/98  
05:31 PM -----

Lisa M. Kountoupes

12/04/98 02:50:59 PM

Record Type: Record

To: Laura Emmett/WHO/EOP

cc: Cynthia A. Rice/OPD/EOP, Caroline R. Fredrickson/WHO/EOP

Subject: tob mts take III

Can we move it to 11:00 am? The room will likely be in rayburn, but I will let you know.

----- Forwarded by Lisa M. Kountoupes/WHO/EOP on 12/04/98  
01:50 PM -----

Lisa M. Kountoupes

12/03/98 04:38:30 PM

Record Type: Record

To: Laura Emmett/WHO/EOP, Cynthia A. Rice/OPD/EOP

cc: Caroline R. Fredrickson/WHO/EOP

Subject: tob mts take II

Can we try thursday, december 10th at 10:30 am room tba for the house commerce democratic staff meeting? again i think it is good to have elena and cynthia, though bruce is very welcome. i think it would be good if

bruce can attend the meetings with bliley and boucher when they are set up. thanks

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 8-DEC-1998 19:48:17.00

SUBJECT: discretionary priorities.

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

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 12/08/98 07:48  
PM -----

Devorah R. Adler  
12/08/98 07:45:55 PM  
Record Type: Record

To: Elena Kagan/OPD/EOP  
cc:  
Subject: discretionary priorities.

this is a draft -- more comments are coming in the morning.

thanks for your patience.

Devorah

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

TEXT:

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## USE OF DISCRETIONARY FUNDS FOR THE FY 2000 BUDGET

**Detecting and managing bioterrorism.** (new initiative) Bioterrorism is becoming an increasing threat that has the potential to injure or kill millions of Americans through deadly diseases, such as anthrax. This proposal funds HHS to train epidemic intelligence officers who identify and respond to attacks, develop a mass casualty emergency response system, maintain a stockpile of pharmaceuticals, and develop new vaccines and antibiotics that could be used in the event of an attack. It is strongly supported by HHS, OMB, DPC and the Vice President's Office.

**Cost.** Original HHS cost estimate: \$370 million

**Issues.** OMB believes that research and product regulation are primarily Federal responsibilities, while public health surveillance, laboratory and epidemiological capabilities, and medical response systems are areas that are primarily State responsibilities. Therefore, NIH, CDC, FDA, and SAMHSA did not receive the full funding amount requested.

**Response.** Although States play an important role in public health surveillance and emergency medical response activities, it is clear that the current local public health infrastructure is unable to support these essential surveillance and response activities. Budget cutbacks and increasingly limited resources have forced many public health clinics and public health departments to close their doors permanently, and the Federal-State communications network is so inadequate that a recent test demonstrated that CDC was unable to contact nearly half of local health departments within a day's time. Depending on local public health entities to independently meet the challenges of detecting and managing the repercussions of a bioterrorist attack will place the country at risk. The OMB passback level prevents CDC from developing improved surveillance and overall emergency preparedness plans and delay FDA's development of new vaccines for anthrax and botulism. The passback level also eliminates SAMHSA's ability to assess the mass behavioral psychological, and socioeconomic response to a bioterrorist event.

**Status.** OMB passback: +\$152 million; WH Need: additional +\$90 million; HHS appeal additional +\$218 million.

**Combating resistance to antibiotics (superbug).** (new DPC proposal.) Recent reports have indicated that resistance to antibiotics is increasingly becoming a public health crisis, causing prolonged illnesses and even death. Currently, hospitals spend over \$600 million each year treating infections caused by bacterial strains that are resistant to antibiotic therapy. This proposal funds CDC to develop and implement public health strategies that combat bacterial strains that are resistant to antibiotic therapies. This policy is supported by DPC and the Vice President's office.

**Cost.** Original DPC cost estimate: \$20 million

**Issues of Concern.** OMB would prefer to subsume this proposal in a new public health

**surveillance initiative, essentially** eliminating the practical public health component of this proposal. In addition, they believe that some of the infrastructure investments that are necessary improve our ability to respond to antibiotic resistance are similar to the steps we are proposing to respond to bioterrorist attacks.

**Response. Although the surveillance efforts associated with this initiative can be subsumed under this new public health surveillance initiative, we believe that the implementation of public health strategies to prevent resistance are important enough to be funded separately.**

**Status. OMB passback: +0 (subsumed in surveillance initiative); WH Need +\$10 million**

**Family Caregiver Support Program. (new initiative)** Approximately 7 million family caregivers currently enable their elderly relatives to remain in the community, providing care that would cost between \$45 and \$75 billion annually if provided by home health care aides. This proposal creates a new national program through the Administration on Aging to support Americans who care for chronically ill or disabled family member or friends. It provides State grants for “one-stop-shop” access point to provide services, such as information and counseling as well as respite services and adult day care. **This proposal is a priority for the Vice President, DPC, and NEC, and is generally supported by OMB.**

**Cost. Original HHS cost estimate: \$150 million**

**Issues.** OMB only provided \$10 million for this initiative, far less than what is necessary for it to be creditable. Barbara Chow has indicated, however, that this would be her first funding priority if she could get additional resources.

**Response.** The OMB passback level prevents the establishment of a national program, providing only enough funds to establish systems in a limited number of States. This policy is a critically important component of the long term care initiative, as it complements the long term care tax credit. Funding of this proposal is necessary to obtain broad based validation from the advocacy community for our entire long term care package.

**Status. OMB passback: +\$10 million; WH need: additional +\$140 million; HHS appeal: additional +\$140 million**

**Nursing home quality initiative. (originally a WH proposal; HHS has expanded it)** On July 21, the President announced his commitment to addressing the current shortcomings in nursing home quality of care. This initiative provides mandatory and discretionary funds to HCFA to help States strengthen nursing home enforcement tools and increase Federal oversight of nursing home quality and safety standards. Funding will be provided for **new enforcement provisions and increased surveys of repeat offenders and improve surveyor training.** **This proposal is strongly supported by DPC and the Vice President’s office.**

Cost. **Original HHS cost estimate: \$153 million**

Issues. OMB funds \$50 million of this initiative through user fees. The passback also assumes that HCFA will assume the survey and certification costs (\$12.5 million) associated with the initiative within its current funding levels.

Response. The user fees used to fund a large part of this initiative will rapidly be discarded by the Hill, placing the initiative in jeopardy. Requiring HCFA to absorb the survey and certification costs associated with this initiative would significantly reduce the level of these important activities. In addition, there is currently another GAO investigation on nursing home quality underway, which underscores the need for a significant investment in this area.

Status. OMB passback: +\$107 million; WH Need: additional +\$37.5 million (\$12.5 million + \$25 million to reduce the unrealistically high user fees from \$50 million to \$25 million); HHS appeal: additional +\$12.5 million

*Educating Medicare beneficiaries about long term care options. (new WH initiative)* Medicare beneficiaries are often unaware that Medicare does not provide long term care services. This proposal provides funds to HCFA to use the Medicare +Choice marketing materials to educate beneficiaries about long term care options outside of the Medicare program. This proposal is strongly supported by DPC and **has been validated by the aging community, as they believe this proposal is necessary to assure beneficiaries have the information they need to understand their options.**

Cost: Original DPC cost estimate: \$25 million.

Issues. OMB believes this is a solid policy worth funding, particularly if it is used to promote high quality long term care products. HHS has concerns with this proposal because it fears that it will be perceived as an endorsement of private long term care insurance.

Response. **We need this initiative to convince the private sector that we believe it has an important role to play in this area and to also indirectly affirm that the Federal government cannot and should not be relied on by the public at large to meet the overwhelming long term care needs facing the nation.**

Status. OMB passback: +(0); WH Need: additional +25 million

**Improving access to Ryan White programs. (existing program) Low income individuals infected with HIV often have to wait up to a year in order to access the comprehensive range of drugs needed to effectively treat HIV. This proposal will increase our current proposed investment in the Ryan White program and the AIDS Drug Assistance Program, which provide a range of critical services for people with HIV/AIDS. OMB and HHS are not advocating for an increase but do not oppose one. Increasing this investment is a top priority for the AIDS office and the Vice President's office.**

Cost. Original AIDS office Ryan White request: \$165 million

Issues. OMB has concluded that it does not have the resources necessary to meet the AIDS Office recommendation of an additional \$165 million for the Ryan White program.

Status. Ryan White OMB passback: +\$72.2 million; WH Need: additional +\$50 million; no HHS appeal

*Addressing HIV/AIDS in minority communities.* (existing WH initiative) This past October, in response to the Congressional Black Caucus, the President declared HIV/AIDS in minority communities to be a "severe and ongoing health crisis." This proposal seeks emergency funding to strengthen substance abuse treatment and prevention programs that include an HIV component and enhance funding for 60 Ryan White planning grants. It is strongly supported by DPC, HHS and the Vice President's office.

Cost. Original HHS cost estimate: \$50 million

Issues. OMB's official position is that this initiative was limited to a one time investment and that there was no commitment to future funding. However, they unofficially have acknowledged that it will be difficult to discontinue this funding priority in the face of extreme pressure by the Congressional Black Caucus. As such, they would not oppose additional funding if dollars could be made available.

Response. The OMB passback completely eliminates funding for this initiative and prevents us from sustaining our commitment to the Congressional Black Caucus and minority communities throughout America.

Status. OMB passback: +(0); WH Need:+\$50 million; HHS appeal: +\$50 million

**Building on the President's Race and Health Initiative.** (existing WH initiative) **Minorities suffer as much as five times the rate for certain diseases and mortality rates, such as cancer, diabetes, heart disease, immunizations, HIV/AIDS, and infant mortality.** Last year, the President announced a \$400 million commitment over 5 years to eliminate racial health disparities in six critical areas by 2010. This proposal funds public health programs designed to prevent diseases experienced disproportionately by minorities and a grant program to test and replicate innovative approaches that address these disparities. It is strongly supported by DPC, HHS, and the Vice President's office.

Cost. Original HHS cost estimate: \$50 million

Issues. The OMB passback suggests that HHS earmark \$50 million of community health center funding for this initiative, rather than providing new funds.

Response. It is extremely important to continue to make significant investments in this initiative in order to deliver on the President's commitment. Dedicating dollars already earmarked for CHCs will be viewed as ineffective and unresponsive by the minority community. In addition, since they only provide direct services, CHCs are unable to adequately address the significant public health infrastructure issues that currently prevent minorities from accessing effective health care services that could arrest disproportionate rates of infection and disease.

Status. OMB passback: +(0); WH Need: +\$80 million; HHS appeal + \$50 million

**Enhancing mental health services. (existing program) Approximately 44 million adults and 14 million children suffer from a mental disorder annually. This proposal increases funding to SAMHSA in order to enable states to provide critical mental health services, including access to prevention and treatment services and providing new incentives to communities who have implemented effective mental health programs. This proposal increases funding to SAMHSA as well as raising awareness about mental health through enhancing the current level of funding provided to States through the mental health block grants. This proposal is strongly supported by the Vice President's office.**

Cost. Original HHS cost estimate: \$146 million

Issues. The OMB passback refocuses mental health activities within the PHS, concentrating on mental health research at NIH, and State grants and specialized service delivery. OMB has stated that the reduction in mental health research grants is justified in the context of large increases for mental health research at NIMH.

Response. Mrs. Gore's office is recommending a White House Conference on Mental Health for this spring to raise awareness about mental illness and to take the next steps to improving access to and treatment of mental health. In addition, next year, HHS will release a Surgeon General's report documenting the widespread incidence and impact of mental illness.

Status. OMB passback: +(0); WH Need: +\$100 million; HHS appeal +\$116 million

*Preventing and treating asthma.* (new initiative) Over the past 15 years, the number of children afflicted with asthma has doubled to total about 6 million. The most rapid increase in prevalence over this time period has occurred in children under the age of 5, with rates increasing over 160 percent. The steep climb in rates of morbidity and mortality classify asthma as an illness with significant public health implications. This proposal funds HHS and EPA to educate patients and providers about new treatment guidelines for asthma, conduct a national asthma awareness campaign, reduce asthma triggers in homes, and establish school based asthma programs in every community. This proposal is strongly supported by both the First Lady's office and DPC.

Cost. Original estimates: \$50 million for HHS and \$25 million for EPA

Issues. OMB has developed a counter-proposal that invests \$25 million in EPA and uses the Medicaid program to disseminate new treatment guidelines for asthma, but eliminates the research and public health strategies that are integral to the HHS proposal. They believe that those components of the proposal could be supported through existing sources of funding.

Response. Although OMB's disease management strategies can and should be incorporated into the HHS proposal, to eliminate the research and wider components of the proposal would greatly inhibit our ability to alleviate the morbidity and mortality associated with this illness.

Status. OMB passback: +(0); WH Need: +\$25 million for HHS; HHS appeal: +\$50 million

**Promoting Medicaid de-institutionalization. (new initiative) One of the biggest frustrations for people with severe disabilities and their families is the "institutional bias" in Medicaid - meaning the tendency to simply put people with great health care needs in nursing homes rather than develop viable, community-based alternatives. This proposal builds on a current demonstration program that by develops and propagates models that give people residing in a nursing home a choice of care settings after a "date certain". This proposal is strongly supported by HHS.**

Cost. Original HHS cost estimate: \$38 million

Issues. OMB and DPC believe that this program is not well designed and would not be validated by the disability community, which is already complaining about the current demonstration program.

Status. OMB passback: +(0); WH Need: +(0); HHS appeal: +\$38 million

*Improving Emergency Medical Services in Rural Areas. (new initiative)* The presence of viable EMS systems is critical for residents in rural and frontier areas. Because of the high rates of occupational injury associated with employment unique to rural areas, such as farming, mining, and fishing, rural residents experience disproportionate rates of trauma and medical emergencies. Many rural and frontier communities face challenges in obtaining ambulance equipment and communication systems and recruiting, training, and retaining EMS personnel. This proposal provides grant funds to States and local communities through HRSA to promote EMS systems development, integrate EMS systems into local primary care services, and enhance provider recruitment, retention and education efforts. It is supported by HHS and DPC, and has been endorsed by the National Rural Health Association.

Cost. Original HHS estimate: \$50 million

Issues. OMB would prefer to fund this program through the Medicare program rather than through a PHS grant program. They believe that this initiative would do little to improve access to health care services or address the many health problems facing rural communities.

**Response.** The grant program structure takes into account the unique nature of small rural communities and allows States to design systems that work for their individual constituencies. In addition, the proposal is a way to relieve some financially burdened rural hospitals of the extraordinarily expensive burden of 24-hour a day ER coverage.

**Status.** OMB passback: +(0); WH Need: +\$25 million; HHS has not appealed

**Providing needed education funds to children's hospitals.** (new WH initiative) **Medicare has invested billions of dollars in graduate medical education to hospitals since 1966. However, because of its current distribution formula, free-standing children's hospitals are forced to shoulder the majority of the cost of training pediatricians, placing them at a severe financial disadvantage.** This proposal creates a new discretionary grant program to provide GME funds through the PHS in order to provide freestanding children's hospitals with Federal financing for the cost of providing direct graduate medical education. This proposal is strongly supported by the First Lady's office, DPC, and the National Association of Children's Hospitals. **HHS does not oppose this proposal, as long as it is not funded through the Medicare trust fund.**

**Cost.** Original DPC cost estimate: \$40 million

**Issues.** OMB is strongly opposed to this proposal because they believe that the children's hospitals are financially stable and do not need additional federal assistance.

**Response.** We believe that there is a legitimate equity argument here, as these hospitals shoulder much of the responsibility for training the nations' pediatricians and pediatric subspecialists.

**Status.** OMB: +(0); WH Need: +\$40 million

*Investing in DoD cancer research programs.* (new DPC proposal) Every year the Congress funds programs at DoD for prostate and breast cancer research. While every White House principal has highlighted these innovative, widely acclaimed research programs, we have never proposed a single dollar for them in our budgets. We are also proposing an investment in osteoporosis research at the DoD. This is a priority for the Vice President.

**Cost.** Original DPC estimate: \$250 million

**Issues:** DoD is resistant to this concept as they believe that although they have developed a model program in response to a Congressional mandate, cancer research is not within their military mission. They are more open to the concept of osteoporosis research because there are many military stress fractures. However, we think it could be highly problematic if the first time we ever invested in these programs we ignored the prostate and breast cancer programs and only funded osteoporosis.

Response: Given the high level of commitment to cancer research and the fact that these programs are already up and running, it is important that we underscore our support for them. Also, DoD is likely to receive generous increases in the budget and this is a good way to invest in cancer priorities in a tight budget.

Status.            **OMB: +(0); WH Need: earmark \$200 million of DoD increase**

*Investing in Promising Biomedical Research.*

Cost.    Original HHS request: \$1.5 billion

Issues: While both HHS and DPC support more generous increases, OMB has suggested that NIH reduce the amount of research started in FY 1999 in order to adjust to this new funding level. Many argue that this is not the best use of resources in a tight budget given the already generous funding at NIH.

Response. **Funding NIH at the OMB passback level would allow the agency to fund only 6,600 new research project grants, which is a 28% decrease from the number of projects funded in 1999 and the lowest level of new research since 1994. OMB suggested that NIH reduce the amount of research started in FY 1999 in order to adjust to this new funding level, which is not a reasonable or responsible path to advocate. It is also important to note that both the President and Vice President have both spoken in great detail about the importance of investments in biomedical research.**

Status.    OMB: +\$49 million; WH Need: additional +\$750 million; HHS appeal \$1.5 billion.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-DEC-1998 19:20:57.00

SUBJECT: Re: Tobacco Czar

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

TEXT:

I can't imagine what this is about.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-DEC-1998 19:22:00.00

SUBJECT: Re: NCLR

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

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

TEXT:  
sure

Maria Echaveste  
12/10/98 06:29:54 PM  
Record Type: Record

To: Sally Katzen/OPD/EOP, Elena Kagan/OPD/EOP  
cc: Gene B. Sperling/OPD/EOP, Bruce N. Reed/OPD/EOP, Sylvia M.  
Mathews/OMB/EOP  
Subject: NCLR

Sally and Elena--we know everyone is really busy but a meeting with NCLR would be very helpful before we finish the initiatives process--for lots of reasons--I've asked Leslie to set up this meeting for late next week, if Gene can't do it, Sally will you please attend and Elenga--you're critical.

----- Forwarded by Maria Echaveste/WHO/EOP on 12/10/98  
06:28 PM -----

Maritza Rivera  
12/10/98 01:41:14 PM  
Record Type: Record

To: Maria Echaveste/WHO/EOP  
cc:  
Subject: NCLR

I have been trying for over a week to get someone from NEC to meet with NCLR without success. In addition, Cecilia told me that you all had a conversation about possibly Elena Kagan being a good person to meet with them. I have e-mailed Laura Emmet (Elena) and Sally Katzen to try and get something set up. I have not heard at all from NEC and Laura suggested they meet with Julie Fernandes and would try to put it in Elena's schedule. I don't think Julie is the proper person for this particular meeting on a myriad of budget issues. Time is a moving. Would you mind sending Elena and Sally an e-mail to see if they will be willing to meet with them, unless of course you disagree. Thank you.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-DEC-1998 19:19:11.00

SUBJECT: Re:

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

TEXT:  
thanks

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME:11-DEC-1998 12:15:09.00

SUBJECT: RECEIVED: Bruce here's the tobacco numbers you asked for

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

TEXT:  
RETURN RECEIPT

Your Document:  
Bruce here's the tobacco numbers you asked for  
was successfully received by:  
CN=Elena Kagan/OU=OPD/O=EOP  
at:  
12/09/98 10:59:14 PM

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME:11-DEC-1998 14:45:32.00

SUBJECT: RECEIVED: Revised tobacco chart per Bruce's voice mail

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

TEXT:  
RETURN RECEIPT

Your Document:  
Revised tobacco chart per Bruce's voice mail  
was successfully received by:  
CN=Elena Kagan/OU=OPD/O=EOP  
at:  
12/10/98 01:29:57 AM



December 11, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed  
Elena Kagan

SUBJECT: DPC Weekly Report

**1. Health Care -- CDC Guidelines for HIV Surveillance:** The Centers for Disease Control (CDC) released draft guidance on Thursday to assist states in designing and implementing new HIV surveillance and reporting systems. The guidance recommends that states track people with HIV by name (as states now track people with full-blown AIDS). At our insistence, however, the guidance also allows states to use so-called unique identifier codes, rather than names. The HIV/AIDS community is relieved that the guidance gives states the option of using identifier codes, but is disappointed that it expresses a preference for using names. **The community believes that names-based reporting jeopardizes confidentiality and discourages testing; CDC disputes these contentions and argues that name-based reporting generally leads to more effective surveillance. Members of the AIDS Council may raise questions about this issue when they meet with you on December 18. You can respond by indicating strong support for states (like California) that are developing effective alternatives to name-based reporting.**

**2. Health Care -- Presidential Task Force on Employment of Adults with Disabilities:** Your Task Force on the Employment of Adults with Disabilities will present the Vice President with its first report on Tuesday. The Task Force will recommend several new investments (e.g., the Jeffords-Kennedy Work Incentives Improvement Act), which we are considering in the context of the budget process; we are fairly confident that the budget will incorporate enough of these recommendations to elicit a positive response from the disabilities community. In addition, the Task Force will propose a number of administrative actions that we can implement immediately. For example, the **Office of Personnel Management will develop a plan to increase the representation of adults with disabilities in the federal workforce, and the Small Business Administration will launch a new outreach campaign to improve opportunities for adults with disabilities. The Vice President, in accepting the report, will reiterate the Administration's commitment to passing a strong and enforceable patients' bill of rights to improve the quality of care for people with disabilities.**

**3. Health Care -- Dean Ornish:** Nancy Ann Min DeParle is meeting with Dr. Ornish today to discuss his proposal for a demonstration project on the cost-effectiveness of programs like his "Life Style Intervention." Nancy Ann will express support for the

idea, although she will not be able to formally approve it at this meeting. We will stay on top of this issue in the next few weeks, as HCFA makes decisions about the scope and financing of the demonstration.

**4. Health Care -- New FDA Commissioner:** The Vice President will swear in Dr. Jane Henney as the new Commissioner of the Food and Drug Administration on Tuesday.

**5. Education -- ESEA Reauthorization:** We are working with the Education Department to include in our ESEA reauthorization proposal a set of accountability requirements that are significantly stronger than any in current law. Some of the proposals under consideration would require states and school districts that receive funding under the ESEA to (1) take immediate steps to identify and intervene in their lowest performing schools; (2) phase out the use of unqualified teachers, including those who are not fully certified or are teaching out of field; (3) phase out the use of instructional aides as primary instructors, especially in high-poverty schools; and (4) have effective policies in place (including appropriate supports for students) to prevent social promotion. We have more to do before we can present you with specific recommendations, but we believe we will be able to get agreement on a plan that demands a serious commitment by states and school districts receiving ESEA funds to set and enforce high standards for schools, teachers, and students.

**6. Education -- National Education Goals Panel:** The National Education Goals Panel released its annual progress report on Thursday. The report highlighted improvements in school readiness, student achievement in math, and participation of women and minorities in math and science in higher education. The report, however, also pointed to apparent backsliding in teacher quality, student achievement in reading, and student drug use. More generally, the report noted that none of the Goals would be met by 2000. Members of the Panel are now discussing what should happen to the Goals (and the Panel itself) after that year. Most members still see a need for national education goals and a bipartisan, intergovernmental panel to report on progress. Indeed, Senator Bingaman, Governor Hunt, and some members of the business community are urging that you take a high profile role in renewing the call for national goals. We and Secretary Riley are concerned, however, that Governor Engler, Congressman Goodling, and other Republicans would fail to support this effort. We will try to find out more about the likely Republican reaction and then give you a recommendation.

**7. Education -- GED Test:** You asked at yesterday's budget meeting about the GED test. We have learned that the American Council on Education (ACE) is responsible for developing and administering the GED. The ACE is now in the process of upgrading the test to keep up with rising academic standards, and hopes to unveil a new version of the test in 2001. We will work with the Education Department on possible ways to make use of a strengthened GED in our education proposals.

**8. Crime -- Capital Punishment:** The Justice Department will release a report on Sunday showing that 17 states executed 74 prisoners in 1997. This number represents a substantial increase from 1996, when 45 executions took place; indeed, the 1997 number is the largest since 1955. The states with the highest number of execution were: Texas (37); Virginia (9); Missouri (6); Arkansas (4); and Alabama (3). All 74 people executed in 1997 were men. The report classifies 45 of those executed as white, 27 as black, one as Asian, and one as American Indian; it further notes that five of the total number were of Hispanic descent. According to the report, an additional 3,335 individuals are now on death row in 34 states and the federal prison system -- 1,876 whites, 1,406 blacks, 28 American Indians, 17 Asians, and 8 of other races. This total includes 238 Hispanics and 44 women. Finally, the report notes that as of November 30, 1998, 18 states had executed 58 inmates, with Texas and Virginia accounting for half the total (17 and 12 respectively).

**9. Welfare Reform -- Work Participation Rates:** We just received (but have not yet published) the first work participation statistics from the welfare reform law. The data show that 36 of the 38 states that were required to meet the law's all-family participation rates in FY 1997 succeeded in doing so. (The remaining states began implementation of the welfare law later and need not meet participation rates until FY 1998.) As you recall, these rates require states, in the first year of the law's implementation, to ensure that 25 percent of all welfare families include an adult who works at least 20 hours each week. (States can get credit toward meeting the work participation rates by reducing their caseloads.) Only Nevada and the District of Columbia failed to meet this requirement, and even they may give HHS enough additional data in the next few weeks to come into compliance. States fared less well, however, in meeting the law's separate work participation rates for two-parent families, who comprise seven percent of the total caseload. These rates require states to ensure that 75 percent of two-parent welfare families include an adult who works at least 35 hours per week. Only 20 of the 38 states met this strict requirement; the failing states now must enter into corrective action plans with HHS to avoid financial penalties.

**10. Welfare Reform -- Teen Birth Trends:** A study by the Centers for Disease Control issued last week provided some new details about the previously reported 15 percent decline in the national teen birth rate from 1991 to 1997. The report showed declines in teen births for all races and ethnic groups and in all states. In addition, the report showed a steep decline (about 21 percent) in the rate of second births to teens during this period. Second births currently comprise about one-fifth of total teen births.

**11. Children and Families -- Infant Mortality and Life Expectancy:** Another new study issued by the Centers for Disease Control last week showed positive trends on infant mortality and life expectancy. The study reported that the U.S. infant mortality rate -- a measure of the death of babies under one year old -- reached its lowest level ever last year. The 1997 infant mortality rate was 7.1 deaths per 1,000 births, which is about 3 percent lower than the 1996 rate of 7.3 deaths per 1,000 births. The drop in infant deaths came despite a 7.5

percent increase in the number of low birthweight babies and a two percent increase in the number of births by women late in their childbearing years. In addition, the study reported that Americans' average life expectancy rose to an all-time high of 76.5 years in 1997. This increase is due in part to falling death rates from major diseases and from accidents, homicides, and suicides. For example, deaths from AIDS dropped by 47 percent in 1997. The most dramatic improvement in life expectancy was among black males, whose expectancy increased by 1.2 years to 67.3.

**12. Children and Families -- Single Fathers Data:** The Census Bureau released data today showing that the number of single fathers with children at home has increased 25 percent in the past three years, from 1.7 million to 2.1 million. These men now account for one in six single parents, joining a total of 9.8 million single mothers. About 35 percent of all single fathers have never married, while more than half of single fathers with children under six have not done so. According to the report, single fathers have higher incomes than single mothers and are more likely to live with another person (mother, girlfriend, etc.) who helps with child care.

**13. Abortion -- New Abortion Study:** The Alan Guttmacher Institute (AGI) released a study on Friday showing the lowest nationwide abortion rates since 1975. The study reports that from 1992 to 1996, the number of abortions performed fell from 1,529,000 to 1,366,000, and the abortion rate decreased from 26 to 23 per 1,000 women aged 15-44. The report attributed most of this decline to effective contraceptive methods, especially among teen-agers, and a consequent decrease in unintended pregnancies. The study also reported a sharp decline in the number of facilities providing abortions during this period, although it suggested that this decline was not a major factor in the lower abortion rates. The total number of facilities providing abortions decreased 14 percent between 1992 and 1996, with the greatest decline among hospitals (18 percent decrease) and physicians' offices (26 percent decrease), rather than clinics (two percent decrease). Less than 10 percent of total abortions are now performed in hospitals and doctors' offices. Finally, the study examined the prevalence of dilation and extraction procedures -- i.e., so-called partial birth abortions. According to the report, doctors at 14 hospitals or clinics performed about 650 of these kinds of abortions in 1996 (out of a total of 1.36 million abortions). The large majority of these procedures were performed between 20 and 24 weeks into a pregnancy.

**14. Community Empowerment -- Community Development Financial Institutions Fund (CDFI):** The Treasury Department recently provided the DPC with summary statistics on the CDFI awards made during the first three years of funding (1996-98). Since its creation, the CDFI Fund has made a total of 196 awards to 164 institutions. Of the institutions receiving awards, 139 were already established and 25 were startup. Of the startup institutions, 9 were full-service financial institutions -- banks, bank holding companies, and credit unions -- and 16 were more specialized financial institutions such as microenterprise funds, venture capital funds, and business loan funds.

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME:11-DEC-1998 12:15:08.00

SUBJECT: RECEIVED: Tobacco table with more info Bruce asked for

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

TEXT:  
RETURN RECEIPT

Your Document:  
Tobacco table with more info Bruce asked for  
was successfully received by:  
CN=Elena Kagan/OU=OPD/O=EOP  
at:  
12/09/98 10:59:34 PM

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME:11-DEC-1998 15:54:51.00

SUBJECT: RECEIVED: 3:15 version of chart plus revised budget tables

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

READ:UNKNOWN

TEXT:

RETURN RECEIPT

Your Document:

3:15 version of chart plus revised budget tables

was successfully received by:

CN=Elena Kagan/OU=OPD/O=EOP

at:

12/11/98 03:47:34 PM



December 11, 1998

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FROM: Bruce Reed  
Elena Kagan

SUBJECT: DPC Weekly Report

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**6. Education -- National Education Goals Panel:** The National Education Goals Panel released its annual progress report on Thursday. The report highlighted improvements in school readiness, student achievement in math, and participation of women and minorities in math and science in higher education. The report, however, also pointed to apparent backsliding in teacher quality, student achievement in reading, and student drug use. More generally, the report noted that none of the Goals would be met by 2000. Members of the Panel are now discussing what should happen to the Goals (and the Panel itself) after that year. Most members still see a need for national education goals and a bipartisan, intergovernmental panel to report on progress. Indeed, Senator Bingaman, Governor Hunt, and some members of the business community are urging that you take a high profile role in renewing the call for national goals. We and Secretary Riley are concerned, however, that Governor Engler, Congressman Goodling, and other Republicans would fail to support this effort. We will try to find out more about the likely Republican reaction and then give you a recommendation.

**7. Education -- GED Test:** You asked at yesterday's budget meeting about the GED test. We have learned that the American Council on Education (ACE) is responsible for developing and administering the GED. The ACE is now in the process of upgrading the test to keep up with rising academic standards, and hopes to unveil a new version of the test in 2001. We will work with the Education Department on possible ways to make use of a strengthened GED in our education proposals.

**8. Crime -- Capital Punishment:** The Justice Department will release a report on Sunday showing that 17 states executed 74 prisoners in 1997. This number represents a substantial increase from 1996, when 45 executions took place; indeed, the 1997 number is the largest since 1955. The states with the highest number of execution were: Texas (37); Virginia (9); Missouri (6); Arkansas (4); and Alabama (3). All 74 people executed in 1997 were men. The report classifies 45 of those executed as white, 27 as black, one as Asian, and one as American Indian; it further notes that five of the total number were of Hispanic descent. According to the report, an additional 3,335 individuals are now on death row in 34 states and the federal prison system -- 1,876 whites, 1,406 blacks, 28 American Indians, 17 Asians, and 8 of other races. This total includes 238 Hispanics and 44 women. Finally, the report notes that as of November 30, 1998, 18 states had executed 58 inmates, with Texas and Virginia accounting for half the total (17 and 12 respectively).

**9. Welfare Reform -- Work Participation Rates:** We just received (but have not yet published) the first work participation statistics from the welfare reform law. The data show that 36 of the 38 states that were required to meet the law's all-family participation rates in FY 1997 succeeded in doing so. (The remaining states began implementation of the welfare law later and need not meet participation rates until FY 1998.) As you recall, these rates require states, in the first year of the law's implementation, to ensure that 25 percent of all welfare families include an adult who works at least 20 hours each week. (States can get credit toward meeting the work participation rates by reducing their caseloads.) Only Nevada and the District of Columbia failed to meet this requirement, and even they may give HHS enough additional data in the next few weeks to come into compliance. States fared less well, however, in meeting the law's separate work participation rates for two-parent families, who comprise seven percent of the total caseload. These rates require states to ensure that 75 percent of two-parent welfare families include an adult who works at least 35 hours per week. Only 20 of the 38 states met this strict requirement; the failing states now must enter into corrective action plans with HHS to avoid financial penalties.

**10. Welfare Reform -- Teen Birth Trends:** A study by the Centers for Disease Control issued last week provided some new details about the previously reported 15 percent decline in the national teen birth rate from 1991 to 1997. The report showed declines in teen births for all races and ethnic groups and in all states. In addition, the report showed a steep decline (about 21 percent) in the rate of second births to teens during this period. Second births currently comprise about one-fifth of total teen births.

**11. Children and Families -- Infant Mortality and Life Expectancy:** Another new study issued by the Centers for Disease Control last week showed positive trends on infant mortality and life expectancy. The study reported that the U.S. infant mortality rate -- a measure of the death of babies under one year old -- reached its lowest level ever last year. The 1997 infant mortality rate was 7.1 deaths per 1,000 births, which is about 3 percent lower than the 1996 rate of 7.3 deaths per 1,000 births. The drop in infant deaths came despite a 7.5

percent increase in the number of low birthweight babies and a two percent increase in the number of births by women late in their childbearing years. In addition, the study reported that Americans' average life expectancy rose to an all-time high of 76.5 years in 1997. This increase is due in part to falling death rates from major diseases and from accidents, homicides, and suicides. For example, deaths from AIDS dropped by 47 percent in 1997. The most dramatic improvement in life expectancy was among black males, whose expectancy increased by 1.2 years to 67.3.

**12. Children and Families -- Single Fathers Data:** The Census Bureau released data today showing that the number of single fathers with children at home has increased 25 percent in the past three years, from 1.7 million to 2.1 million. These men now account for one in six single parents, joining a total of 9.8 million single mothers. About 35 percent of all single fathers have never married, while more than half of single fathers with children under six have not done so. According to the report, single fathers have higher incomes than single mothers and are more likely to live with another person (mother, girlfriend, etc.) who helps with child care.

**13. Abortion -- New Abortion Study:** The Alan Guttmacher Institute (AGI) released a study on Friday showing the lowest nationwide abortion rates since 1975. The study reports that from 1992 to 1996, the number of abortions performed fell from 1,529,000 to 1,366,000, and the abortion rate decreased from 26 to 23 per 1,000 women aged 15-44. The report attributed most of this decline to effective contraceptive methods, especially among teen-agers, and a consequent decrease in unintended pregnancies. The study also reported a sharp decline in the number of facilities providing abortions during this period, although it suggested that this decline was not a major factor in the lower abortion rates. The total number of facilities providing abortions decreased 14 percent between 1992 and 1996, with the greatest decline among hospitals (18 percent decrease) and physicians' offices (26 percent decrease), rather than clinics (two percent decrease). Less than 10 percent of total abortions are now performed in hospitals and doctors' offices. Finally, the study examined the prevalence of dilation and extraction procedures -- i.e., so-called partial birth abortions. According to the report, doctors at 14 hospitals or clinics performed about 650 of these kinds of abortions in 1996 (out of a total of 1.36 million abortions). The large majority of these procedures were performed between 20 and 24 weeks into a pregnancy.

**14. Community Empowerment -- Community Development Financial Institutions Fund (CDFI):** The Treasury Department recently provided the DPC with summary statistics on the CDFI awards made during the first three years of funding (1996-98). Since its creation, the CDFI Fund has made a total of 196 awards to 164 institutions. Of the institutions receiving awards, 139 were already established and 25 were startup. Of the startup institutions, 9 were full-service financial institutions -- banks, bank holding companies, and credit unions -- and 16 were more specialized financial institutions such as microenterprise funds, venture capital funds, and business loan funds.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:14-DEC-1998 12:54:11.00

SUBJECT: Choice Mtg, tomorrow, Tuesday, 12/15 2:00 PM

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

TEXT:

who is this??

----- Forwarded by Elena Kagan/OPD/EOP on 12/12/98 11:46  
PM -----

Janelle E. Erickson

12/14/98 12:52:19 PM

Record Type: Record

To: Elena Kagan/OPD/EOP, Jennifer L. Klein/OPD/EOP, Jennifer M. Luray/WHO/EOP

cc:

Subject: Choice Mtg, tomorrow, Tuesday, 12/15 2:00 PM

There will be a meeting regarding "choice" issues Tuesday, 12/15, 2:00 PM in the Roosevelt Room.

Please let me know if you can not attend - thanks.



**VICE PRESIDENT GORE ADDRESSES  
NEXT STEPS TO BRING  
TELEVISION INTO THE DIGITAL AGE.**

WASHINGTON -- Vice President Gore today outlined a series of important next steps that will bring television into the digital era -- enhancing consumer choice and serving the public interest, *and challenged the broadcasting industry to follow through on the commitments made in the report in the next year.*

In its report submitted today, the Advisory Committee on Public Interest Obligations of Digital Television Broadcasters took critical new steps in defining the public interest in the digital era. *For the first time, a committee of broadcasters, public interest groups, and other interested representatives set forth a code of minimum public interest requirements that all broadcasters should adopt. The 22-member committee also unanimously recommended that broadcasters voluntarily provide free air time for political discourse. In addition, the committee recommended mandatory disclosure of public interest activities and improved service to underserved communities, including minorities and individuals with disabilities.*

"The Committee's recommendations clearly recognize the great public interest and great potential public benefits that can be achieved as we bring television into the digital era," said Vice President Gore. *"The President and I believe we must make the most of the vast new capabilities of digital television so that we realize its full potential to educate, enlighten, and enrich public discourse,"* he said.

The Vice President issued a series of challenges to build on and implement the Committee's recommendations:

- **Call on Broadcasters to Implement Recommendation:** Broadcasters should commit voluntarily to include at least five minutes nightly of free time for political candidates starting 30 days before an election. *The FCC should monitor industry compliance and should determine if there is a (or take steps to insure?) satisfactory fulfillment of this commitment before the next general election in 2000.*
- **Call on the FCC to Develop Mandatory Minimum Standards When Necessary.** The FCC should monitor broadcaster's compliance with their voluntary commitments *over the next year and* to develop mandatory minimum standards if necessary. The minimum standards would cover obligations such as closed-captioning, public service announcements, public affairs programming, educational and instructional programming and mandatory Free TV Time;
- **Call on Congress to Fund Our Requests to Move Public Broadcasting in the Digital Age.** Congress should give public broadcasters the funds they need to move into the digital age. Last year Congress gave only \$15 million of the \$50 million requested to help public broadcasters make the transition to digital technology;
- **Make Best Use of New Digital Technologies.** Broadcasters and manufacturers should hold a

dialogue on how to use new innovative technologies to improve disaster warnings, ensure the v-chip works, and enhance closed captioning and disability access to digital television.

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FILES\CONTENT.IE5\QN4Z2DKF\P\_M4975085\_OPD\_HTML\_1[1].DOC

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:14-DEC-1998 11:44:28.00

SUBJECT: Re: Organ donations

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

We took a major hit in the budget on this issue (with a bipartisan coalition in Congress insisting that we delay our rule for a year). Also, since Livingston is one of the major opponents of our position, I can't imagine we're going to do better this year. So it doesn't strike me that there's much to say. Chris, am I wrong?

# Withdrawal/Redaction Marker

## Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Elena Kagan to Laura Emmett. Subject: Invitation (3 pages)	12/15/1998	Personal Misfile

### COLLECTION:

Clinton Presidential Records  
Automated Records Management System [Email]  
OPD ([From Elena Kagan])  
OA/Box Number: 250000

### FOLDER TITLE:

[11/30/1998 - 12/15/1998]

2009-1006-F

wr56

### RESTRICTION CODES

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

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

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

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

RR. Document will be reviewed upon request.

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

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