

NLWJC - KAGAN

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ARMS - BOX 015 - FOLDER 002

[3/10/1999 - 3/31/1999]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-MAR-1999 15:28:42.00

SUBJECT: Draft of Native American chapter for the race book

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

TEXT:

please print

----- Forwarded by Elena Kagan/OPD/EOP on 03/10/99 03:30
PM -----

Mary L. Smith
03/10/99 03:25:13 PM
Record Type: Record

To: Elena Kagan/OPD/EOP, Bruce N. Reed/OPD/EOP
cc: Laura Emmett/WHO/EOP, Thomas L. Freedman/OPD/EOP
Subject: Draft of Native American chapter for the race book

Chris Edley asked if I could put together a section of the President's race book on Native Americans. Attached is: (1) a short section for the beginning of the book that sets forth a little background on tribal sovereignty and (2) a longer piece that sets forth three policy proposals.

The policy proposals are: (1) an educational mentoring program and record-keeping system for Native American children; (2) a community-based law enforcement initiative; and (3) a broad-based economic development initiative that focuses on creating an entrepreneurial culture, providing access to capital, encouraging homeownership, and investing in technology infrastructure.

I given the draft to Tanya, Jose, and NEC to review their various sections. I expect to fill in a few statistics and do some minor editing in the next day or so, but no major revisions. I was going to give a final to Edley on Friday unless you had a problem with it. Thanks,
Mary

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D25]MAIL477277470.036 to ASCII,
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Part IV: The Opportunity We Deserve

6. Creating Opportunities for Native Americans

INTRODUCTION

In 1994, I held a historic meeting at the White House with American Indian and Alaska Native tribal leaders from the over 500 federally recognized tribes. I was the first sitting President to do so. I hope I will not be the last. Native Americans occupy a special place spiritually, culturally, and historically in America. These people harvested the earth, swam in the rivers, and enjoyed the bounty across this beautiful land we now call America. Our ancestors oppressed and brutalized these people, deprived them of their lands, and denied them opportunities. But they could not break their spirit. In 1998, I had the pleasure of hosting a White House conference on economic development in Indian country. There I met a young man named Dominic Ortiz from the Prairie Band Potawatomi Nation who attended one of the tribal colleges and has his own business selling American Indian jewelry. Dominic embodies the entrepreneurial spirit upon which this country was built. Just as Dominic created his own future, we must embark on a new era where Native Americans determine their own future through their own acts and decisions.

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Before Europeans landed on America's shores, Indian nations were self-governing societies with remarkable scientific, artistic, and cultural achievements. American Indians and Alaska Natives are much more than colorful characters in our Nation's distant past, however. The 554 federally-recognized tribal governments are a permanent part of the political structure of our Nation. Since the founding of our nation, the United States has recognized many Indian tribes as "domestic dependent nations" with sovereign powers over their members and territory and has entered into numerous treaties with various tribes pledging protection and guaranteeing tribal self-government. This is why American Indians are not simply another minority or racial grouping.

In 1831, Chief Justice John Marshall stated that the "Federal Indian relationship is characterized by peculiar and cardinal distinctions that exist no where else."ⁱⁱ Marshall was referring to the special trust relationship that has existed between the United States and Indian tribes since the birth of our nation. **It is manifested in treaties, agreements, court decisions, statutes, executive orders, and in the overall course of dealings between the federal and tribal governments. These Executive, Legislative, and Judicial actions charge the United States Government with legal and moral obligations of the highest responsibility and trust toward Indian Tribes. Under federal law, the United States has a legally enforceable fiduciary responsibility to protect tribal lands, assets, resources, treaty rights as well as a**

general obligation to fulfill the mandates of federal laws with respect to American Indians and Alaska Natives.

Regrettably, our nation has not always lived up to these legal and moral ideals. Between 1778 and 1871, when the last treaty was signed, Indian tribes ceded almost one billion acres of land to the United States. In return, Indians generally retained inalienable and tax-exempt lands for themselves, and the Federal government pledged to provide such public services as law enforcement, education, medical care, and technical and agricultural training. All too frequently, these solemn promises made to the tribes have been broken. Our failure to invest sufficient resources to meet these obligations has hindered the social and economic advancement of Native Americans and has produced economic conditions on many reservations more analogous to those of third-world nations than of communities in America's heartland.

We are living in a time of great prosperity and hope. Our economy is the strongest in a generation. For the first time in three decades, the budget is balanced. There are nearly 18 million new jobs, wages are rising at more than twice the rate of inflation, home ownership is at its highest rate in history, and unemployment is at its lowest in almost thirty years.ⁱⁱ

For many Native Americans, the picture is quite different. The stark beauty of the vast plains of the Pine Ridge Reservation in South Dakota contrasts with the harsh existence of the people who live there. There is no poorer place in America. Housing is scarce, overcrowded, and often lacking indoor plumbing, electricity, or telephones. There is no industry, no factories, and no technology. Two of every three adults living on the reservation are out of work.ⁱⁱⁱ The average life expectancy for the Oglala Sioux men who live there is 56.5 years, and for women, it is 66 years.^{iv} Similar conditions exist on reservations across our nation where the lack of paved roads, access to electrical power, telephone lines, and other physical infrastructure serve as major barriers to economic development.

We must bear in mind, however, that our nation often has pursued policies that have undermined the capacity of tribal governments to advance the social, economic, and institutional development of tribal communities. As well-intended as these policies may have been in the minds of those promoting them, efforts to coerce the assimilation of Native Americans served largely to weaken and destabilize the very institutions best-suited to serve the community -- tribal governments. The time has come to break decisively with the past and stop trying to impose conditions on tribes. As reflected in my executive order on tribal consultation, we must work with tribes on a government-to-government basis, recognizing their ability to steer their own course and set their own priorities.

Economic and business development is clearly a top priority in virtually every tribal community. Even though **economic conditions in Indian country have improved in recent years, American Indian and Alaska Native communities continue to lag behind the rest of the United States with respect to social, economic, and educational attainment levels. Income levels of American Indians and Alaska Natives are substantially below those of all**

other Americans, and about 34 percent continue to live below the poverty level. In comparison, the national poverty level is about 14 percent.^v Complicating factors such as geographical isolation, under developed infrastructures, and demographics, add to the challenges confronting tribes as they work toward a better standard of living and quality of life for tribal peoples.

As the new millennium dawns, there is reason to be hopeful, however. A small, but significant number of tribes have succeeded in reducing poverty and unemployment through the aggressive pursuit of new economic activities. Tribal gaming operations have produced the most dramatic success stories. What began with a handful of tribal bingo halls in the early 1980s has grown into an estimated \$6 billion a year for the one-third of the Nation's 554 tribes that operate some form of gaming.^{vi} The revenues from gaming have allowed some tribes to pursue aggressive economic development strategies such as starting new business enterprises, investing in infrastructure, and building concert halls, sports arenas, and golf courses. Gaming tribes are viewing the revenues from gaming as the key to improving the lives of each of its members as well as enriching the entire community.

As lucrative as it has been for some tribes, gaming is not a panacea for every tribe. Only ___ tribes have established gaming, and of those, only ___ tribes earn significant profits. Revenues from the development of natural resources such as timber, minerals, and oil and gas remain by far the largest source of income for tribal governments, and farming and ranching continues as a way of life for many reservations residents. On the other hand, the mere fact that numerous tribes have achieved a significant, sometimes dramatic, measure of success appears to have stimulated a growing sense of optimism throughout Indian Country.

Finally, while it is difficult for those in poor, minority communities to secure business loans or mortgages, in Indian Country, it is virtually impossible. Conventional approaches to resolving this situation are problematic on reservations and other Indian trust lands because of the peculiar legal status of such lands, particularly in the case of mortgages. Reservation land is owned by the federal government and held in trust on behalf of tribes. This trust status and legal protection is extremely important from the perspective of Indian landowners, but there are trade-offs. Banks are extremely reluctant to make loans without collateral or the ability to foreclose on a property in the event of a default. To extend the availability of loans for homes on Indian trust lands without breaching the trust doctrine, the Departments of Housing and Urban Development, Agriculture, and Veteran's Affairs have authority to issue government-insured loans. The process, however, is complex and time-consuming requiring coordination between at least two separate federal agencies.

I believe that every American should have the opportunity to own their own home. That is why as part of the first-ever White House Conference, Building Economic Self-Determination in Indian Communities," I announced that a One-Stop Mortgage Center Initiative to streamline lending procedures and coordinate federal agencies involved in providing mortgages on reservations.

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One of the keys to economic development is education. Education provides a solid foundation for succeeding later in life. It is critically important that American Indian and Alaska Native students receive the same educational opportunities that are available to other students as these children are the future for their tribes and their communities. The Native American population is young -- thirty-nine percent of the American Indian population was under 20 years old in 1990, compared with 29 percent of the Nation's total population.^{vii} We must ensure that these future generations, descendants of the great warriors such as Sitting Bull and Crazy Horse, are able to forge successful lives, whether on or off the reservation.

Elementary and secondary education is normally thought of as the domain of state governments, but, out of this trust responsibility, the United States is responsible for two school systems, one serving the children of military personnel and the other serving the children of tribal communities. Of the 185 BIA-funded elementary and secondary schools on reservations today, two-thirds of the buildings are over 30 years old, and more than a quarter are over 50 years old.^{viii} I have made education one of the top priorities of my Administration. I have challenged the public schools of this country to hire better teachers, to become more accountable, to fund school construction to fix crumbling buildings, and to wire every classroom to the Internet. These same challenges are even more apparent for the BIA-funded schools. With buildings crumbling and decaying, it is nearly impossible to wire these classrooms to 21st century technology. It would be a grave injustice to fail these children to whom we have a special obligation to prepare for the future. For this reason, I have proposed substantial increases in funding for school construction and repair for these schools.

Although we must work to improve the BIA-funded schools, we must also work to ensure that the public school system serves American Indian children. Just as in the rest of the population, almost 90 percent of American Indian children attend state public schools, while only about 10 percent attend the BIA-funded schools.^{ix} These children face unique challenges. Over 50 percent of American Indian fourth-graders scored below the basic level in reading and mathematics.^x

We cannot concentrate only on improving elementary and secondary education for Native American students. We must make a college education a reality for each and every American Indian child. Less than two-thirds of Native Americans are high school graduates compared with 75 percent of the rest of the population, and less than 10 percent of Native Americans have bachelor's degrees compared with 20 percent of the total population.^{xi} I have fully supported this country's 31 **check** tribal colleges. These institutions, located directly in Indian communities, provide the chance for a college education to students who do not have the funds to attend more expensive private schools or the means to leave their families behind to attend schools that are hours away. The American Indian Higher Education Consortium reports that of the 42 percent of

tribal college graduates who transfer to a mainstream institution, 90 percent obtain bachelor's degrees. Other studies show that only 30 percent of Native Americans who enter mainstream institutions as freshman graduate.^{xii}

Finally, the cultures of American Indian tribes is a rich part of the heritage of this country. The maintaining of Native languages and cultures is critical. Yet, there is an alarming decline in the use of Native languages indigenous to the United States. In 1969, there were 300 separate languages still being spoken. In 1996, that number had dropped to 206.^{xiii}

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Competing images of reservations usually come to mind: either the dusty roads and ramshackle buildings which are home to the poverty- and disease-stricken people who live there or the vast beauty of blue-sky country juxtaposed with snow-capped mountains, grassy plains, or orange-hued canyons. Between these two extremes lies a more complicated reality. Just as the blight is being tempered with signs of a burgeoning economic renaissance, the natural beauty of many reservations camouflages an ever-worsening crime problem. Inner-city, minority communities have gotten most of the media attention for their gun violence and murder rates. While the population density fuels incidents of violence in inner cities, the very vastness and remoteness of many reservations also facilitates crimes.

Although violent crime has been declining nationally for several years, it has been on the rise in Indian country. Recently, the Department of Justice, in its first comprehensive analysis of Indians and crime, reported that American Indians are victims of violent crimes at more than twice the rate of the rest of the country.^{xiv} In contrast to the rest of the country, where nine out of every ten murders involve victims and offenders of the same race,^{xv} about seven in ten violent victimizations of American Indians involved an offender who was of a different race. Use of alcohol was a major factor in violent crimes involving American Indians. American Indian victims reported a drinking offender in 46 percent of all violent victimizations, such as rape, sexual assaults, robberies, and other assaults, about 70 percent of jailed American Indians convicted for violence reported that they had been drinking at the time of the offense.^{xvi}

Gangs are no longer only the province of inner cities. Youth gangs are becoming more prevalent in Indian country. While some of the conditions which lead to gangs elsewhere such as extreme and pervasive poverty, lack of role models, and limited opportunities probably overlap, we should explore why this disturbing condition is becoming more and more prevalent.

Indian communities often have other unique law enforcement problems. While soaring homicide rates have shortened life expectancy for black men in urban areas, the death toll on reservations often results from motor vehicle accidents and suicides. Suicide is the ninth leading cause of death of American Indians nationwide.^{xvii} Car crashes are the third leading cause of death on Indian reservations, and alcohol is often involved.^{xviii}

Part of the problem is clearly a lack of police officers and other law enforcement resources. While there are 2.9 police officers per 1,000 citizens in non-Indian communities with populations of less than 10,000, there are only 1.3 officers per 1,000 citizens on Indian reservations.^{xix} There are only 1,600 BIA police and uniformed tribal officers patrolling 56 million acres of Indian lands in the lower 48 states, protecting more than 1.4 million residents. By contrast, 3,600 police officers protect the 540,000 residents of our Nation's capital on _____ acres.^{xx} In addition, departments often are so woefully under funded that patrol cars are most likely to be 10 years old, with the odometer showing more than the 60,000 miles that federal regulations say should be the maximum. Most Indian police are armed with old six-shot revolvers instead of the semiautomatic weapons that most other police departments have, and most officers do not have bullet-proof vests.

However, a large part of the problem is the geographic isolation and the vastness of the area to be covered. Many officers must drive hundreds and hundreds of miles to assist other officers. The Navajo Nation alone is 26,500 square miles. It is incomprehensible that a police officer must venture alone, out manned and outgunned, into an immense wilderness, not knowing whether this day of duty will be his last. Like many others in poor, minority communities, many American Indians have lost faith in the criminal justice system. There is a perception that the federal government has turned its back on helping to protect these communities.

In order to make Indian people feel safe in their homes and in their communities and to restore some trust and confidence in law enforcement, I have made law enforcement in Indian country a priority. Since 1995, the Justice Department's Office of Community Oriented Policing Services has awarded \$67,787,443 through 395 grants to 187 Indian tribes and Alaska Native villages. These grants have funded the salary and benefits for 906 police officers in Indian Country. In 1997, I directed the Attorney General and the Secretary of the Interior to collaborate on a plan for a new organizational structure for Indian law enforcement that streamlines budgeting and identifies manpower needs. In addition, I asked Congress for a significant increase in funding for law enforcement and public safety in Indian Country, including funds for new tribal police, detention facilities, juvenile justice programs, and tribal courts, as well as additional FBI agents and Bureau of Indian Affairs officers, so that we might dramatically improve public safety in Indian Country.

In this first year of the Interior and Justice Departments' joint law enforcement initiative, we will significantly increase federal law enforcement resources in Indian Country, through deployment of 30 additional FBI agents, 32 new BIA criminal investigators, and over 200 new BIA police officers, detention officers, and radio dispatchers. In addition, through the COPS program, we will give tribal government a flexible menu of options so that they can meet their areas of greatest need by hiring new, fully trained and equipped community police officers or by equipping and training the officers that they currently have. While significantly increasing the number of law enforcement officials in Indian Country, we will also make certain that our focus remains on saving tribal youth from becoming involved in the criminal justice system through prevention programs, especially those that focus on alcohol and drugs.

In the balance of this chapter, I offer a work plan which focuses on three important issues for American Indians: education, economic development, and crime. I will first propose how the federal government can provide leadership on each of these issues and then will outline how the entire nation working together can make progress in each of these areas.

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**Centerpieces of the Federal Work plan:
(1) Comprehensive Educational Mentoring and Record Tracking
for Native American Students**

For many years, the federal government has focused its efforts on Indian education primarily in the areas of funding and operating the 185? BIA schools and providing Impact Aid to school districts where a large portion of their tax based is comprised of trust land which is tax-exempt. We have made some progress. In keeping with the stated policy of tribal self-determination and self-governance, more than ___ of the BIA-funded schools are now owned or operated by Tribes. **Check** However, there is much work left to do.

Education has been one of the touchstones of my Administration. I have fought to improve the education of this Nation's children by improving their reading and math, lowering class size, recruiting outstanding new teachers, ending social promotion, and providing accountability for failing schools. In setting forth initiatives to accomplish each of these goals, I have sought to ensure that Native American students benefit from these reforms. I fought to help local school districts hire 100,000 well-prepared teachers in order to reduce class size in grades 1-3 to a national average of 18, and make sure that every child gets a solid foundation in the basics. Studies show that smaller classes help teachers provide more personal attention to students helping students learn more and build a stronger foundation in basic skills. In these studies, minority and disadvantaged students showed the largest achievement gains. To ensure that American Indian children in the BIA-funded schools were able to reap the benefit of smaller class sizes, there is a set-aside to target funds in order recruit, hire and train teachers in these schools.

Students cannot learn in buildings where there are crumbling walls, chipping paint, leaky roofs, and inadequate heating systems. School buildings represent the nation's most pressing infrastructure need.^{xxi} To address this critical need, I proposed federal tax credits as incentives to help states and school districts to build and renovate public schools, with one-half of the bonding authority allocated to the 100 school districts with the largest number of low-income children. This bonding authority is a powerful tool which permits the leveraging of local resources to build new schools and make much needed repairs to older schools. Traditionally, tribes have been denied this tool in order to repair and replace schools on the reservations. For the first time, I have proposed bonding authority for tribes with a mechanism to ensure principal repayment.

This authority will empower the Tribes to make significant changes in their communities.

I also signed an executive order that is designed to improve the academic performance of American Indian and Alaska Native students in grades K-12. This executive order institutionalizes a process to ensure that there is strategic planning with respect to Native American students. As one of the first activities that grew out of the strategic planning process, I proposed to begin training and recruiting of 1000 new teachers for areas with high concentrations of American Indian and Alaska Native students. This initiative provides financial assistance to individual student, increases capacity building to create programs to train teachers, and allows for continuing education to ensure that the quality of teachers remains high.

While these proposals are a good start, we need to make sure that obtaining a college education becomes a reality for every American Indian student. Only two-thirds of Native American students successfully complete high school --far fewer than other students.^{xxiii} My Comprehensive Educational Mentoring and Record Tracking for Native American Students seeks to make the dream of a college education a reality for these students:

- There is a unique problem for many Native American students in that they shuttle between the BIA-funded schools and public schools near the reservation. This transferring of schools interrupts the educational process and causes students to keep from advancing at the rate at which they should. Teachers also are not able to adequately assess a particular child's skill levels because part of his or her record is in one school and the rest of it is in one or, in some cases, several other schools. Currently, we do not keep statistics on this phenomenon. I propose that we keep statistics on the number of American Indians students who interrupt their education by transferring between BIA-funded and public school systems. We should also conduct research on the consequences of this activity. Finally, we should seek to construct a system where a complete record of a student's progress is kept in a single location.
- We need to ensure community involvement in the education of American Indian students. An important part of achieving the goal of a college education is ensuring that these students and receive mentoring or tutoring on a regular basis. These tutors could be either older students, senior citizens, or other adults in the community. These students should have mentors that help them as they advance from grade to grade and ensure that they are on track of entering college. This new mentoring program should cooperate with Americorps and the National Senior Service Corps.
- We should seek to preserve Native American culture and language. Just as the tribal colleges construct themselves to reflect tribal culture, a part of this proposal is to create groups of students who are assigned to a tribal elder to help support their educational activities. Without recognizing and preserving their culture, these students often are disenfranchised because they do not have any role models. These elders will serve this function by providing guidance and a positive influence to students, as well as teach them about tribal history, language, arts, and culture, on their road to a college education.

By keeping tracking of these American Indian students and by providing a two-tier mentoring system, we can vastly improve the chances that these students will be better equipped to obtain a college degree.

(2) Model Community Initiative for Encouraging Economic Development

There is simply no excuse that many communities in Indian country face conditions often worse than many third-world countries. I propose a Model Community Initiative to Encourage Economic Development in Indian Country. The Federal Government's efforts should support and encourage efforts which help American Indians develop their economic infrastructure. This proposal should focus on the following:

- **Creating an Entrepreneurial Culture.** On the dawn of the 21st century, entrepreneurship and small businesses are playing a major role in the restructuring of the U.S. economy and in creating jobs. We must work with Indian country to find ways to capitalize on the strengths of small and medium-sized businesses in order to diversify their economies. We should provide the tools and work with Tribes to nurture home-grown firms, encourage innovation and risk-taking, and enhance investment in new businesses.
- **Providing Access to Capital.** Finding the start-up money for new businesses and new building is a daunting task. I am proud that the Community Development Financial Institutions (CDFI) Fund, which works alongside mainstream institutions in expanding access to capital in low-income communities, has begun several successful activities in Indian Country. For instance, the Fund has invested in First American Credit Union, which provides basic financial services to 15,000 Native Americans throughout Arizona and parts of New Mexico and Utah, helping leverage capital to support small agricultural and Native American craft businesses. The CDFI Fund is also in the process of conducting a study on lending and investment practices on Indian reservations and other land held in trust by the United States. This study will identify barriers to private financing on such lands and identify the impact of such barriers on access to capital and credit for Native American populations. As the result of this study, the Fund will develop an Action Plan to create new incentives for financing in Indian Country. In the meantime, I have made providing equity capital to new markets a priority with my "New Markets Initiative." This initiative will help Indian Country with initiatives such as tax credits, Small Business Investment Companies (SBICs), and BusinessLINC, which helps link larger businesses to smaller firms. Finally, with the Round II of the Empowerment Zones (EZs) and Enterprise Communities (ECs), Indian lands became eligible with the result that one reservation, Pine Ridge, was designated as an EZ and four were designated as Ecs. Under these programs, the federal government provides tax benefits for businesses, flexible grants to carry out comprehensive revitalization strategies, and the ability to apply for waivers from federal programs enabling local communities to better address

their particular needs.

- **Encourage Homeownership.** We must all work together to ensure that the dream of owning of home becomes a reality in Indian Country. HUD, in close cooperation with tribal leaders across the country, is working to create a national housing model called “Shared Visions” to build and renovate affordable housing on tribal lands and to help more Native Americans become homeowners. This model strives to increase the number of affordable, quality homes and to make it easier for Native Americans to obtain mortgages by encouraging private sector partnerships, streamlining federal regulations, and improving coordination among federal agencies and tribes. As part of the project, a nonprofit will be established to provide financial help, low-cost financing, down payment assistance, and homeownership counseling.
- **Invest in Technology Infrastructure.** Many places on reservations do not have telephones, computers, or Internet access. The Department of Commerce is working on a study that will identify the infrastructure technology needs in Indian country and will set forth proposals to address these needs. The federal government, along with Tribes, states, and the private sector, must work together to ensure that reservations are hooked up to information technology and that the infrastructure to support this technology are put in place.

By focusing federal resources on improving economic development in Indian Country through creating an entrepreneurial culture, providing access to capital, encouraging homeownership, and investing in technology infrastructure, we will help tribal governments bring growth and opportunities to Indian Country.

(3) Tribal-Based Law Enforcement Initiative

I have worked very hard to find new ways for the federal government to assist local communities in addressing their needs in a comprehensive and effective way. The importance of this effort is nowhere greater than in Indian Country, where the federal government plays a special role due to its trust responsibility to tribal governments. We need to develop federal-tribal-private partnerships that respect tribal sovereignty and preserve traditional Native American culture, while at the same time ensuring that much needed resources are used to improve the quality of life in Indian Country. Nowhere is this need greater than in the area of law enforcement and public safety. A safe community provides the base on which economic development can flourish for all Native Americans.

Community policing has been the cornerstone of my Administration’s law enforcement initiatives. This model provides a community-based approach to law enforcement, by providing flexibility in identifying problems, and creating a partnership between citizens and law enforcement. This model fits well with Indian country with each community having unique but overlapping problems with other Indian communities.

A broader vision, however, is necessary to address the needs of tribal communities more comprehensively. I propose the Tribal-Based Law Enforcement Initiative that seeks to implement the idea that comprehensive strategies and coordinated funding are the most effective way for the federal government to assist communities in addressing local problems. There are three primary objectives: (1) to obtain intensive experience in diverse communities about the most effective ways to address their law enforcement problems; (2) to address community problems in a comprehensive way through effective planning and appropriate funding; and (3) to promote inter-tribal exchanges of ideas and experiences, as well to promote coordination among tribes for more efficient use of resources. This initiative should have the following components:

- Through the use of technical assistance, the federal government will work with tribes, on a government-to-government basis, to help them identify the unique law enforcement and public safety problems in their community. Tribes will assess their communities' need and priorities and develop appropriate strategies to address them. Through this process, the communities will develop a comprehensive plan to address law enforcement and public safety concerns.
- The communities will use these plans to apply for law enforcement funds in a new, coordinated process with one application rather than on a piecemeal basis. This will ensure that the communities can maximize the use of federal funding in a coordinated, problem-solving manner. The goal of this project will be to help Indian communities develop comprehensive strategies for improving public safety.
- The project will have an evaluation component and tribes will be encouraged to set performance goals for reducing crime.
- This project should be expanded at successive phases to tie into other agencies besides the Department of Justice. Particularly in Indian communities, a large portion of the crime problems are tied to alcohol and substance abuse. In order to address these problems in a comprehensive way, law enforcement should work in tandem with other federal programs to solve the underlying cause of many of the incidents of crime.

This initiative will empower communities to solve their law enforcement problems at a local level and in a comprehensive manner, and rebuild a sense of confidence in law enforcement in Indian country.

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A WORKPLAN FOR THE NATION

There are many opportunities to improve the lives of Native Americans in the areas of education, economic development, and law enforcement if we all work together to build One America. The Nation's efforts should focus on the following goals:

- Eliminate disparities for American Indians in the public school system;
- Seek to preserve the culture of American Indians and Alaska Natives;
- Promote cooperation between the federal government, States, local governments, and the private sector to invest in economic development in Indian country;
- Invest in infrastructure in Indian country, both in technology and through transportation systems; and
- Build cooperation to ensure public safety in Indian communities and provide positive influences for Indian youth to stay out of crime.

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Eliminate disparities for American Indians in the public school system

American Indian students attend schools operated by state, federal, and tribal governments. As stated earlier, about 90 percent of American Indian students attend state public schools. Because of this, there is a great opportunity for the states, localities, and tribal governments to work together to ensure that Native American students have equal access to high quality curricula, teachers, classrooms, and materials.

In overcoming the gaps in educational opportunities, several unique factors affecting American Indian students, such as high student mobility rates, high drop out rates, and high teacher turnover rates should be taken into account. Studies have shown that changing schools even once during a school year can have a negative impact on student achievement.^{xxiii} Furthermore, schools are often ill-prepared to meet the needs of transfer students because of slow or inadequate student record transfer. These separate educational systems must improve the transfer of records and the sharing of information by developing common databases and utilizing technology. There are also opportunities for intergovernmental regulation of student transfers and the development of memoranda of understanding about common educational issues and concerns.

As noted earlier, most schools are funded largely on local property taxes. Because of a shrinking tax base, many minority communities are able to generate fewer and fewer resources to fund their schools. This problem becomes exacerbated for local public school districts where a large portion of the district is comprised of Indian reservation land that is held in trust by the federal government and cannot be taxed by state or local governments. The Impact Aid program seeks to remedy this problem by providing federal funding to redress the negative impact of the loss of a taxable base. My Administration has fully supported the Impact Aid program, and we should continue to do so in order to ensure that public schools serving Native American students stand on an equal footing with other public schools.

While there are unique issues affecting American Indian and Alaska Native students, the goals I laid out earlier apply equally to these students. Let me be clear: we must support Native American families and early learning opportunities; overcome gaps in K-12 educational opportunity; provide for high-quality teachers; ensure access to challenging courses; repair and replace old and dilapidated schools; provide technology and training; end social promotion; and hold all of our students to high expectations. If we do all this, we will have made tremendous strides in ending the disparities that plague too many of this Nation's Native American students.

Seek to preserve the culture of American Indians and Alaska Natives

American Indian children often do not come to school ready to learn. They have often had to face serious health and safety issues. Often they do not have access to early childhood education programs, which are linguistically, culturally, and developmentally appropriate. The Bureau of Indian Affairs funds over 20 ~~check~~ Family and Child Education (FACE) projects, which serves over 1,500 families. The FACE program provides early childhood opportunities for Indian children by targeting preschool children ages 0-5 and their parents. All schools systems must focus on early childhood and pre-school programs so that Indian children are given greater assistance that meets their unique educational needs. These programs should promote school readiness, enhance native language development, and increase the potential for learning among young American Indian and Alaska Native children.

Promoting cooperation between the federal government, States, local governments, and the private sector to invest in economic development in Indian country

We must encourage more cooperation between state, local, and tribal governments. Because of the sovereign status of tribes, states cannot directly tax tribal governments. Along with this lack of ability to directly tax tribes, there is a misperception that Tribes do not contribute to the local economy and that revenues flow from states to tribes, but not in the other direction. One study shows that residents of Indian reservations (approximately 1.24 million persons in over 330,000 households) make approximately \$3.1 billion in annual personal consumption expenditures off the reservation in the local, state, and national economies of which reservations are a part. State governments in proximity to reservations expend approximately \$226 million annually on behalf of reservation residents, while the residents, tribal governments, and businesses on reservations generate \$246 million in annual state tax revenue.^{xxiv} From these statistics, it is clear that state and local governments should work in partnerships in tribes to develop economic strategies for entire regions.

Invest in infrastructure in Indian country, both in technology and through transportation systems

Because of their often remote locations, American Indian and Alaska Native communities stand to benefit greatly from the Information Age, yet are in grave danger of being left behind. A

recent Department of Commerce study on Internet and computer usage in American shows that, although many more Americans now own computers, minority and low-income households are still far less likely than white and more affluent households to have personal computers or access to the Internet. Even more disturbing, this study reveals that this “digital divide” between households of different races and income levels is growing.^{xxv} States, local governments, tribes, the federal government, and the private sector must all work together to ensure that Indian youth have the access to the Information Age in their classrooms and that Indian communities have access for economic development. [talk about transportation]

Build cooperation to ensure public safety in Indian communities and provide positive influences for Indian youth to stay out of crime

Tribal communities are among the youngest population groups in America, and many tribal youth are at risk. The development of youth gangs has been a disturbing trend in Indian Country, and many tribal youth lack for role models and opportunities. It is thus critically important that we develop strategies for creating a more stable environment for tribal youth in both the short and long term.

Through the Department of Justice’s “Volunteers for Tribal Youth (VTY)” Program, we will build a federal-tribal partnership project designed to help American Indian tribes enhance or create sustainable community-based volunteer programs aimed at creating positive opportunities for youth and reducing youth and/or gang violence. The Department, working in partnership with 18 federal and national non-profit organizations, will work with tribal communities to identify opportunities for volunteers, including elders, to serve as mentors, tutors, and positive adult role-models for American Indian youth. To that end, this program intends to provide tribal communities with the financial resources, training, technical assistance, organizational guidance, networking assistance, and other resources necessary to create and sustain community-based volunteer programs.

* * *

Conclusion

Tribal communities stand at the threshold of a new era, one filled with the promise of greater prosperity and a higher quality of life. These are crucial years for the future of American Indians and Alaska Natives. This nation must commit itself to supporting tribal and individual efforts to build the foundation for the success of American Indians and Alaska Natives in the coming millenium.

i.

-
- ii. From 1999 State of the Union, stock language he always uses
 - iii. Washington Post, December 16, 1997.
 - iv. Jon Jeter, Washington Post, December 16, 1997. Statistics from Harvard School of Public Health, epidemiological study.
 - v. Census data or CPS data.
 - vi. William Claiborne, Washington Post, August 14, 1998.
 - vii. Census 1990
 - viii. BIA
 - ix. Where get this?
 - x. 1994 National Assessment of Education Progress (NAEP).
 - xi. 1990 Census.
 - xii. USA Today, April 13, 1998.
 - xiii. 1969 Senate Committee
 - xiv. "American Indians and Crime," Department of Justice (February 1999).
 - xv. CEA report
 - xvi. "American Indians and Crime," Department of Justice (February 1999).
 - xvii. Washington Post, December 16, 1997.
 - xviii. Washington Post, December 16, 1997.
 - xix. FBI's Uniform Crime Report.
 - xx. Washington Post, February 15, 1999.
 - xxi. American Society of Civil Engineers (1998).
 - xxii. 1990 Census.
 - xxiii. Any cite for this?

xxiv. Prepared statement of Robert F. Robinson, President of the Center for Applied Research, Inc., submitted to the U.S. Senate Committee on Indian Affairs, Economic Development Hearing, April , 1998.

xxv. Department of Commerce, 1998.

Part I - The America We See (American Indian insert)

Before Europeans arrived on this Nation's shores, American Indians built great civilizations with remarkable scientific, artistic, and cultural achievements. From aspirin, cocoa, and quinine to architecture and government planning, the Indian nations and tribes have made important contributions to our nation. Our Founding Fathers visited the Iroquois confederacy to examine its system of separation of powers in developing our own system of checks and balances.

Although I was aware that my home State of Arkansas was home to a significant but very small population of American Indians, I did not know much about tribal governments before my first Presidential campaign in 1992. The opportunity to visit some of the reservations and discuss issues with tribal leaders prompted me to learn more about the government-to-government relationship that exists between the U.S. government and Indian tribal governments, to seek a better understanding about social and economic conditions in Indian communities, and to explore opportunities to enhance the standard of living for America's tribal peoples. It is this government-to-government relationship and the sovereignty of tribes which distinguishes Native Americans tribes as political groups and not simply racial or ethnic classifications.

I began to understand the importance of tribal self-determination to positive social and economic growth and to formulate the policies that I believed would provide the greatest support for tribal objectives. I believed that federal agencies should consult with tribes prior to taking actions that affect tribal interests. I also felt strongly that the right of Native Americans to the free exercise of religion must be secured. On April 29, 1994, I became the first President since James Monroe, the fifth U.S. President, to invite the leaders of every tribe to a meeting at the White House. That afternoon, I signed two Executive memoranda: one to facilitate the process through which tribal members may gain access to eagle feathers for religious purposes and the other directing federal agencies to consult with tribes prior to taking actions that affect tribal rights and interests. In May 1998, I signed an executive order which strengthens the federal government's commitment to consulting with tribes.

The special political relationship between tribal governments and the United States arises from Article I, Section 8 of the Constitution where the Framers of the Constitution crafted a legal and political niche within which the internal autonomy and political authority of tribes would continue to be recognized. In interpreting Article I, Section 8 of the Constitution, Chief Justice Marshall noted that "the relationship of tribes to the United States is unlike that of any other two people in existence marked by cardinal and peculiar distinctions." Marshall characterized tribes as domestic dependent nations, at once possessing attributes of sovereignty and yet dependent upon the protection of the United States. Justice Marshall also recognized that there is a federal Indian trust responsibility under which the United States has assumed certain legal and moral obligations in relation to American Indian and Alaska Native tribes.

Treaties were used extensively by the European states as a means fostering peace,

formalizing diplomatic relations, and conducting transactions with the Tribes from first contact. The Tribal Nations of the New World were a formidable political and military force, and treaties of peace and friendship were powerful tools for fostering trade and commerce. The newly formed U.S. continued to negotiate treaties with the Indian nations until 1871 when Congress ended treaty making with Indian tribes. Sadly, we know that our nation has not always honored our commitments to Native Americans. From 1887 to 1934, Indian tribes lost almost 100 million acres of reservation lands.

Though deeply rooted in the Constitution, the right of tribal self-government has frequently been challenged throughout our nation's history. From the earliest days of the republic, there have been two competing views about Indian policy. At one extreme is the view that tribal existence is inconsistent with fundamental American values. Proponents of this view believe that Indian people should be assimilated into the larger society as quickly and thoroughly as possible. At the other extreme is the view that tribal existence can be maintained only in isolation from the larger society. What proponents of either view fail to recognize is that tribal government is wholly compatible with, and is indeed a part of, our Constitutional framework.

The existence of tribal governments is particularly suitable to the political structure and underlying principles and values of our nation, balancing the distribution of governmental power among separate sovereigns forming a single union. Such structure readily accommodates inclusion of tribal governments both philosophically and practically. While distinctly different from states in many respects, tribal governments possess the kinds of powers typically associated with state governments. Such powers include the authority to make and enforce civil and criminal laws; to levy taxes; to establish membership criteria; and to license and regulate activities. Although tribes possess both the right and the power to regulate activities in their territories independently from surrounding state governments, they frequently collaborate and cooperate with states, on a government-to-government basis, through compacts or other agreements.

Although tribal governmental authorities have been recognized within federal jurisprudence since the establishment of our nation, it has only been in recent years that tribal governments have been provided mechanisms through which to exercise greater autonomy and authority over the delivery of federal Indian programs and resources. In 1994, I signed into law the Tribal Self-Governance Act. Under Self-Governance, tribal governments have unprecedented authority over the design, allocation, and expenditure of resources as well as the management of natural resources. Through this law, my Administration has continued the process of transferring tribal government service delivery from the Bureau of Indian Affairs to tribal governments

Tribal government has come of age in the last quarter of the twentieth century. Nearly wiped out first by the assimilation policies in the 1880's, then by the policy of terminating the political status of tribes in the 1950's through 1973, tribal government has made a spectacular come back, continuously growing in capacity, sophistication, and strength. As a new millennium dawns, we must resolve to break decisively with old attitudes and ideas that divide Americans and

hinder our ability to achieve social justice and equality of opportunity for every American. America must rid itself of the notion that Indian tribes are tragically, but inevitably, destined to vanish from the face of the Earth in the wake of the manifest destiny of our nation. When the framers of our Constitution incorporated Indian nations into the political and legal framework of this country, they forever joined the destiny of the tribal nations with that of this great nation. The time now has come for our nation to embrace the principle that American Indian and Alaska Native tribal governments are a permanent and integral part of the social, political, and economic fabric of the United States.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-MAR-1999 16:06:47.00

SUBJECT: Ed-Flex POTUS Stmt

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

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 03/10/99 04:09 PM -----

Jonathan H. Schnur
03/10/99 03:31:37 PM
Record Type: Record

To: Elena Kagan/OPD/EOP
cc:
Subject: Ed-Flex POTUS Stmt

----- Forwarded by Jonathan H. Schnur/OPD/EOP on 03/10/99 03:34 PM -----

Laura Emmett
03/10/99 12:11:40 PM
Record Type: Record

To: Amy Weiss/WHO/EOP @ EOP, Jennifer M. Palmieri/WHO/EOP @ EOP, Jason H. Schechter/WHO/EOP @ EOP, Barry J. Toiv/WHO/EOP @ EOP
cc: Jonathan H. Schnur/OPD/EOP @ EOP, Tanya E. Martin/OPD/EOP @ EOP
Subject: Ed-Flex POTUS Stmt

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

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D77]MAIL45183847Y.036 to ASCII,
The following is a HEX DUMP:

FF575043BE040000010A02010000000205000000060E000000020000408B762F46303911993793
4C7AE6B4EB70FB1A0C8EE9AED854F19E32DE366CAC7B0A3CE32E1F291FC1D1B1FBB5D7782998E3
CF3CBBFD3BA1C508D6DAB6520C7EC5393DE7EE4FC7887E6881EC7A0FCECOD69AB3D6ABAB79507C
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B8B305AD07CA7E5F60218B807B99F34927B13A66881196CADA362E4FD4DD24B57EFA0CBD0D3030
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*Statement of the President
March 10, 1999*

Today, the Senate and the House have the chance to move forward with bipartisan legislation to reduce class size and improve public schools across the country. Last year, with bipartisan support, Congress enacted a down payment on my initiative to hire 100,000 teachers to reduce class size in the early grades. This week, the Republican leadership in the Senate not only is blocking a vote on the Murray-Kennedy amendment to finish the job, but is trying to undermine the bipartisan agreement we reached last fall. The Republicans are attempting to take the funds we agreed to invest in reducing class size and divert those funds to special education. While we should increase funding for special education -- as we have done in past years and as my budget recommends continuing to do in the future -- I will vigorously oppose taking this money from the recently enacted class size initiative. We should not be pitting our children against one another or changing the rules now on our critical efforts to reduce class size. Smaller classes will help all students do better, and will reduce the need for special education services by helping teachers identify and assist as early as possible children who are having learning problems. I call on every member of Congress to reject these Republican efforts, and allow an up-or down vote this afternoon on the Murray-Kennedy and Clay-Wu measures to help reduce class size and hire well-prepared teachers across the nation.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-MAR-1999 15:28:13.00

SUBJECT: Re: Helms v. Picard

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

You bet. As you know, we've traded calls a few times on this. Either a phone call or a meeting is fine.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-MAR-1999 19:52:28.00

SUBJECT: Re: nice job

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

READ:UNKNOWN

TEXT:

Thank YOU

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-MAR-1999 12:17:32.00

SUBJECT: LRM CJB20 - - EDUCATION Draft Bill on Public Choice and Innovation (Magnet Schoo

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

READ:UNKNOWN

TEXT:

please print

----- Forwarded by Elena Kagan/OPD/EOP on 03/10/99 12:19 PM -----

Constance J. Bowers

03/10/99 10:56:32 AM

Record Type: Record

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

cc:

Subject: LRM CJB20 - - EDUCATION Draft Bill on Public Choice and Innovation (Magnet Schools, Charter Schools, and Choice Schools provisions) parts of the Elementary and Secondary Education Act Reauthorization (Parts of Title V, ESEA)

To follow is ED's draft language on equity provisions of the ESEA Reauthoziation. Please provide comments by:

12:00 noon, Monday, March 15, 1999

Note: If you are unable to access these files, please let me know. This material is not being faxed to you.

click here for draft bill text:

click here for draft sectional analysis text:

----- Forwarded by Constance J. Bowers/OMB/EOP on 03/10/99 10:38 AM -----

LRM ID: CJB20

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Wednesday, March 10, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

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

OMB CONTACT: Constance J. Bowers

PHONE: (202)395-3803 FAX: (202)395-6148

SUBJECT: EDUCATION Draft Bill on Public Choice and Innovation
(Magnet Schools, Charter Schools, and Choice Schools provisions) parts of
the Elementary and Secondary Education Act Reauthorization (Parts of Title
V, ESEA)

DEADLINE: 12:00 noon Monday, March 15, 1999

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

COMMENTS: Because of the magnitude of ED's draft bill to reauthorize the
Elementary and Secondary Education Act, circulation and interagency review
will be handled in separate pieces.

DISTRIBUTION LIST

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LRM ID: CJB20 SUBJECT: EDUCATION Draft Bill on Public Choice and
Innovation (Magnet Schools, Charter Schools, and Choice Schools
provisions) parts of the Elementary and Secondary Education Act
Reauthorization (Parts of Title V, ESEA)

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:

http://172.28.127.30:8082/ARMS/servlet/getEmailArchive?URL_PATH=/nlcp-2/Arms405/who/Who_19981...

(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: Constance J. Bowers Phone: 395-3803 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: _____
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Sandra Yamin/OMB/EOP
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Constance J. Bowers/OMB/EOP
Nancy J. Duykers/OMB/EOP

Draft 3/9/99**TITLE V B PROMOTING EQUITY, EXCELLENCE, AND PUBLIC SCHOOL CHOICE
RENAMING THE TITLE**

SEC. 501. The heading for Title V of the ESEA is amended to read as follows:

ATITLE V -- PUBLIC SCHOOL CHOICE AND INNOVATION@.

**[THE NUMBER AND ORDER OF PROGRAMS UNDER THIS TITLE HAS NOT YET
BEEN DETERMINED]**

AMENDMENTS TO THE MAGNET SCHOOLS ASSISTANCE PROGRAM

SEC. 502. (a) FINDINGS. Section 5101 of the ESEA is amended to read as follows:
AFINDINGS

ASEC. 5101. The Congress finds as follows:

A(1) Magnet schools are a significant part of our Nation's effort to achieve voluntary desegregation in our Nation's schools.

A(2) It is in the national interest to desegregate and diversify those schools in our Nation that are racially, economically, linguistically, or ethnically segregated. Such segregation exists between minority and non-minority students as well as among students of different minority groups.

A(3) Desegregation can help increase rates of high school graduation and college attendance, and can promote better occupational prospects for students who have attended integrated schools.

A(4) Desegregation can provide students with valuable experience that prepares them to function in a diverse society and can help break down longstanding patterns of racial isolation in adult social relationships.

A(5) Despite ongoing desegregation efforts in the Nation --

A(A) almost one-third of our elementary and secondary schools continue to be schools with 50 percent or more minority students;

A(B) more than two-thirds of minority students attend schools with 50 percent or more minority students, and almost half of minority students attend schools with 75 percent or more minority students;

A(C) almost one-third of non-minority students attend schools with less than 10 percent minority students;

A(D) almost one-quarter of Black students attend schools with 90 percent or more Black students; and

A(E) almost one-third of Hispanic students attend schools with 75 percent or more Hispanic students.

A(6) Local educational agencies' use of magnet schools has increased dramatically since the enactment of the Magnet Schools Assistance program, thus increasing public school options for the approximately two million students nationwide now attending such schools, of which more than 65 percent of the students are minority.

A(7) Magnet schools offer a wide range of distinctive programs that have served as models for school improvement efforts.

A(8) In administering the Magnet Schools Assistance program, the Federal Government has learned that--

A(A) where magnet programs are implemented for only a portion of a school's student body, special efforts must be made to discourage the isolation of--

A(i) magnet school students from other students in the school; and

A(ii) students by racial characteristics;

A(B) local educational agencies can maximize their effectiveness in achieving the purposes of the Magnet Schools Assistance program if they have more flexibility in the administration of the program in order to serve students attending a school who are not enrolled in the magnet program;

A(C) local educational agencies must be creative in designing magnet schools for students at all academic levels, so that those school do not serve only the highest-achieving students;

A(D) consistent with desegregation guidelines, local educational agencies must seek to enable participation in magnet school programs by students who reside in the neighborhoods where the programs operate;

A(E) in order to ensure that magnet schools are sustained after Federal funding ends, the Federal Government must assist school districts to improve their capacity to continue operating magnet schools at a high level of performance; and

A(F) magnet schools and interdistrict magnet programs have provided poor and minority students opportunities to succeed academically and continue with college or productive employment.

A(9) It is in the best interest of the Federal Government to--

A(A) continue Federal support of school districts implementing court-ordered desegregation plans and school districts seeking to foster meaningful interaction among students of different racial and ethnic backgrounds, beginning at the earliest stage of their education;

A(B) help ensure that all students have equitable access to high-quality education that will prepare them to function well in a culturally diverse, technologically oriented, and highly competitive global community; and

A(C) help maximize the ability of local educational agencies to plan, develop, implement and continue effective and innovative magnet schools that contribute to State and local systemic reform. @.

(b) PURPOSE. Section 5102(3) of the ESEA is amended to read as follows:

A(3) the development and design of innovative educational methods and practices that promote diversity and increase choices in public elementary and secondary schools and educational programs; and @.

(c) APPLICATION REQUIREMENTS. Section 5106(b)(1)(D) of the ESEA is amended by--

(1) striking out Aunder this Act, the Goals 2000: Educate America Act, @ and inserting in lieu thereof Aunder this Act, @; and

(2) striking out Asection 14306 @ and inserting in lieu thereof Asection 14307 @.

(d) PRIORITY. Section 5107 of the ESEA is amendedC

(1) by striking out paragraphs (1) and (5);

(2) by redesignating paragraphs (2), (3), and (4) as paragraphs (1), (2), and (3), respectively; and

(3) by adding a new paragraph (4) to read as follows:

A(4) propose activities, which may include professional development, that will build local

capacity to operate the magnet program once Federal assistance has ended. @.

(e) USES OF FUNDS. Section 5108(a) of the ESEA is amended C

(1) by amending paragraph (3) to read as follows:

"(3) for the payment, or subsidization of the compensation, of--

"(A) elementary and secondary school teachers who are certified or licensed by the State; and

"(B) instructional staff who have--

"(i) expertise and professional skills necessary for the conduct of programs in magnet schools; or

"(ii) a baccalaureate degree, an equivalent degree, or who demonstrate knowledge, experience, or skills in the relevant field of expertise;"

(2) in paragraph (4), by striking out the period and inserting in lieu thereof a semicolon and Aand@; and

(3) by adding a new paragraph (5) to read as follows:

A(5) for activities, which may include professional development, that will build the applicant=s capacity to operate the magnet program once Federal assistance has ended. @ .

(f) REPEAL. Section 5111 of the ESEA is repealed.

(g) EVALUATION, TECHNICAL ASSISTANCE, AND DISSEMINATION. Section 5112 of the ESEA is C

(1) redesignated as section 5111; and

(2) amended, as redesignated, to read as follows:

EVALUATION, TECHNICAL ASSISTANCE, AND DISSEMINATION

A SEC. 5111. The Secretary may reserve not more than five percent of the funds appropriated under section 5112(a) for any fiscal year C

A(1) for evaluations of magnet school programs assisted under this part, which, at a minimum, shall address C

A(A) how, and the extent to which, magnet school programs lead to high educational quality and improvement;

A(B) the extent to which magnet school programs enhance student access to high-quality education;

A(C) the extent to which magnet school programs lead to the elimination, reduction, or prevention of minority group isolation in elementary and secondary schools with substantial proportions of minority students;

A(D) the extent to which magnet school programs differ from other school programs in terms of organizational characteristics and resource allocations; and

A(E) the extent to which magnet school programs continue once grant assistance under this part ends;

A(2) to provide technical assistance to applicants and grantees; and

A(3) to collect and disseminate information on successful magnet school programs. @.

(h) AUTHORIZATION OF APPROPRIATIONS.--(1) Section 5113(a) of the ESEA is amended to read as follows C

A(a) AUTHORIZATION.--(1) For the purpose of carrying out this part, there are authorized to be appropriated such sums as may be necessary for fiscal year 2001 and for each of the four succeeding fiscal years. @.

(2) Section 5113 of the ESEA, as amended by paragraph (1), is redesignated as section 5112.

REPEAL AND REDESIGNATIONS

[CROSS REFERENCES DUE TO CHANGES WILL HAVE TO BE ADDED LATER]

SEC. 503 (a) REPEAL. Part C of Title V of the ESEA is repealed.

(b) REDESIGNATION OF THE WOMAN=S EDUCATIONAL EQUITY PROGRAM.

(1) Part B of Title V of the ESEA is redesignated as Part D.

(2) Sections 5201 through 5208 of the ESEA are redesignated as sections 5401 through 5408, respectively.

(3) Section 5408, so redesignated, is amended to read as follows:

AAUTHORIZATION OF APPROPRIATIONS

ASEC. 5408. For the purpose of carrying out this part, there are authorized to be appropriated such sums as may be necessary for fiscal year 2001 and for each of the four succeeding fiscal years, of which not less than two-thirds of the amount appropriated under this section for each fiscal year shall be available to carry out the activities described in section 5403(b)(1).@. **[WEA UNFINISHED, UPDATES AND MINOR PROGRAM CHANGES ARE ANTICIPATED.]**

(c) REDESIGNATION OF THE PUBLIC CHARTER SCHOOLS PROGRAM.

(1) Part C of Title X of the ESEA is redesignated as Part B of title V of the ESEA.

(2) The heading for Part C of Title X of the ESEA is amended to read as follows:

APART B -- PUBLIC CHARTER SCHOOLS@.

(2) Sections 10301 through 10311 of the ESEA are redesignated as sections 5201 through 5211 of title V of the ESEA, respectively.

PUBLIC SCHOOL CHOICE PROGRAM

SEC. 504 Title V of the ESEA is further amended by adding a new Part C to read as follows:

APART C-- PUBLIC SCHOOL CHOICE PROGRAM

AFINDINGS; PURPOSE

ASEC. 5301. (a) FINDINGS. The Congress finds that--

A(1) a wide variety of educational opportunities and options in public school system is needed to help all children achieve to high standards;

A(2) high-quality public school choice programs that are genuinely open and accessible to all students (including poor, minority, limited English proficient, and disabled students) broaden educational opportunities and promote excellence in education;

A(3) current research shows that--

A(A) students learn in different ways, benefiting from different teaching methods and instructional settings; and

A(B) family involvement in a child=s education (such as helping choose what courses to take) is a key factor supporting student achievement;

A(4) public school systems have begun to develop a variety of innovative programs that offer expanded choices to parents and students; and

A(5) the Federal Government should support and expand on these efforts to give students and parents the high-quality public school choices they seek, to help eliminate barriers to effective public school choice, and to disseminate the lessons learned from high-quality choice programs so that all public schools can benefit from these efforts.

A(b) PURPOSE. It is the purpose of this part to identify and support innovative approaches to high-quality public school choice by providing financial assistance for the demonstration, development, implementation, evaluation of, and dissemination of information about, public school

choice projects that stimulate educational innovation for all public schools and contribute to standards-based school reform efforts.

AGRANTS

ASEC. 5302. (a) IN GENERAL. From funds appropriated under section 5305(a) and not reserved under section 5305(b), the Secretary shall make grants to State and local educational agencies to support programs that promote innovative approaches to high-quality public school choice.

A(b) DURATION. Grants under this part shall not exceed three years.

AUSES OF FUNDS

ASEC. 5303. (a) USES OF FUNDS. (1) Funds under this part may be used to demonstrate, develop, implement, evaluate, and disseminate information on innovative approaches to broaden public school choice, including the design and development of new public school choice options, the development of new strategies for overcoming barriers to effective public school choice, and the design and development of public school choice systems that promote high standards for all students and the continuous improvement of all public schools.

A(2) Examples of such approaches at the school, district, and State levels areC

A(A) inter-district approaches to public school choice, including approaches that increase equal access to high-quality educational programs and diversity in schools;

A(B) public elementary and secondary programs that involve partnerships with institutions of higher education and that are located on the campuses of those institutions; and

A(C) programs that allow students in public secondary schools to enroll in postsecondary courses and to receive both secondary and postsecondary academic credit;

A(D) worksite satellite schools, in which State or local educational agencies form partnerships with public or private employers, to create public schools at parents= place of employment; and

A(E) approaches to school desegregation that provide students and parents choice through strategies other than magnet schools.

A(b) LIMITATIONS. Funds under this part shall--

A(1) supplement, and not supplant, non-federal funds expended for existing programs;

A(2) not be used for transportation; and

A(3) not be used to fund projects that are specifically authorized under Parts A and B of this title.

AGRANT APPLICATION; PREFERENCES

"SEC. 5304. (a) APPLICATION REQUIRED. A State or local educational agency desiring to receive a grant under this part shall submit an application to the Secretary, in such form and containing such information, as the Secretary may require.

"(b) APPLICATION CONTENTS. Each application shall includeC

"(1) a description of the program for which funds are sought and the goals for such program;

"(2) a description of how the program funded under this part will be coordinated with, and will complement and enhance, programs under other related Federal and non-federal projects;

"(3) if the program includes partners, the name of each partner and a description of its responsibilities;

A(4) a description of the policies and procedures the applicant will use to ensure--

A(A) its accountability for results, including its goals and performance indicators;

and

A(B) that the program is open and accessible to, and will promote high-academic standards for, all students.

A(c) SPECIAL CONSIDERATION. The Secretary is authorized to give special consideration to applications demonstrating that the applicant will carry out its project in partnership with one or more public and private agencies, organizations, and institutions, including institutions of higher education and public and private employers.

"AUTHORIZATION OF APPROPRIATIONS

"SEC. 5305. (a) AUTHORIZATION OF APPROPRIATION. For the purpose of carrying out this part, there are authorized to be appropriated such sums as may be necessary for each of the fiscal years 2001 through 2005.

"(b) RESERVATION FOR EVALUATION, TECHNICAL ASSISTANCE, AND DISSEMINATION. From the amount appropriated under subsection (a) for any fiscal year, the Secretary may reserve not more than five percent to carry out evaluations under subsection (c), to provide technical assistance, and to disseminate information.

A(c) EVALUATIONS. The Secretary may use funds reserved under subsection (b) to carry out one or more evaluations of programs assisted under this part, which shall, at a minimum, addressC

A(1) how and the extent to which the programs supported with funds under this part promote educational equity and excellence; and

A(2) the extent to which public schools of choice supported with funds under this part areC

A(A) held accountable to the public;

A(B) effective in improving public education; and

A(C) open and accessible to all students.@.

###

Draft 3/9/99

TITLE V B PROMOTING EQUITY, EXCELLENCE, AND PUBLIC SCHOOL CHOICE

Section-by-Section Analysis

Among other things, new title V of [NAME OF BILL] would: (1) improve the Magnet Schools Assistance program by adding emphasis on projects that consider the diversity of the student populations and that have the capacity to continue after the Federal grant has run out; (2) move Charter Schools, from Part C of Title X of the ESEA, to Part B of Title V of the ESEA; (3) add a new initiative, Public Choice School, that would provide a flexible authority to support State and local educational agencies in experimenting with different kinds of public elementary and secondary schools, such as worksite and College-based schools; (4) reauthorize the Woman=s Educational Equity program, but move it to Part [-] of the Title V of the ESEA; and (5) repeal the Assistance to Address School Dropout Problems program, currently in Part C of Title V of the ESEA. Each of the new title V programs would be reauthorized for five years. **[THERE ARE LIKELY TO BE OTHER PROGRAMS REAUTHORIZED, LIKE FIE, THAT WILL GO INTO THIS TITLE.]**

Magnet School Assistance:

Section 501. Section 501 of the bill, ARenaming the Title,@ would change the name of title V of the ESEA to APromoting Equity, Excellence, and Public School Choice@.

Section 502. Section 502 of the bill would amend Part A , the AMagnet School Assistance Program,@ of Title V of the ESEA. Section 502 (a) of the bill would make editorial changes to, and update, section 5101 of the ESEA, the findings for the Magnet School Assistance Program.

Section 502(b) of the bill would amend section 5102(3) of the ESEA, AStatement of Purpose,@ to clarify that the purpose of providing financial assistance to develop and design innovative educational methods and practices is to promote diversity and increase choices in public elementary and secondary schools and educational programs.

Section 502(c) of the bill would amend section 5106(b)(1)(D) of the ESEA, AInformation and Assurances@ (a part of the application requirements), to eliminate reference to the Goals 2000: Educate America Act and to correct a section number.

Section 502(d) of the bill would amend section 5107 of the ESEA, APriority,@ to eliminate the current priorities for greatest need and new, or significantly revised, projects. These priorities are not well defined and have not helped to determine which grant applications are most deserving. Section 502(d) would also add a new priority for projects that propose activities, which may include professional development, that will build local capacity to operate the magnet program once Federal assistance has ended.

Section 502(e) of the bill would amend section 5108(a) of the ESEA, "Uses of Funds," to: (1) revise paragraph (3) to allow for the payment, or subsidization of the compensation, of elementary and secondary school teachers who are certified or licensed by the State, and instructional staff who have expertise and professional skills necessary for the conduct of programs in magnet schools or a baccalaureate degree, an equivalent degree, or who demonstrate knowledge, experience, or skills in the relevant field of expertise; and (2) allow grantees to use funds for activities, including professional development, that will build the applicant's capacity to operate the magnet program once Federal assistance has ended.

Section 502(f) of the bill would repeal section 5111 of the ESEA, "Innovative Programs." This program is limited by the requirements of Part A; its activities are subsumed under the new Public School Choice program.

Section 502(g) of the bill would redesignate current section 5112 of the ESEA, "Evaluation, Technical Assistance, and Dissemination," as section 5111, and incorporate its requirements into a new section, "National Activities," that would authorize the Secretary to reserve not more than five percent (rather than two percent) of appropriated funds in any fiscal year to evaluate the program, as well as provide technical assistance to applicants and grantees and collect and disseminate information on successful magnet school programs. Section 502(g) of the bill would also require each evaluation, in addition to current items, to address the extent to which magnet school programs continue once grant assistance under this part ends.

Section 502(h) of the bill would amend section 5113(a) of the ESEA, "Authorization," to authorize such sums as may be necessary for fiscal year 2001 and for each of the four succeeding fiscal years to be appropriated to carry out the part. Section 501(h) of the bill would also redesignate section 5113 as section 5112.

Assistance to Address School Dropout Problems: [FINAL SPECIFICATIONS FOR SECTION 503(a) HAVE NOT BEEN RECEIVED; REPEAL IS ANTICIPATED.]

Woman's Educational Equity Act of 1994: [FINAL SPECIFICATIONS FOR SECTION 503(b) HAVE NOT BEEN RECEIVED; REAUTHORIZATION AND MINOR UPDATING OF THE PROGRAM IS ANTICIPATED.]

Redesignation of the Public Charter Schools Program:

Section 503(c) of the bill would redesignate the Public Charter Schools Program, which is currently Part C of Title X of the ESEA, as Part B of title V of the ESEA. Section 502(c) would also make necessary conforming changes to carry out the redesignation.

Public School Choice Program:

Section 504 of the bill would amend title V of the ESEA to add a new Part C, A Public School Choice Program, that would authorize a flexible, competitive grant program to help State and local agencies provide innovative, high-quality public school choice programs.

New section 5301 of the ESEA would set forth the findings of the new part and state that its purpose is to identify and support innovative approaches to high-quality public school choice by providing financial assistance for the demonstration, development, implementation, evaluation of, and dissemination of information about public school choice projects that stimulate educational innovation for all public schools and contribute to standards-based school reform efforts.

New section 5302(a) of the ESEA would authorize the Secretary, from funds appropriated under section 5305(a) and not reserved under section 5305(b), to make grants to State and local educational agencies to support programs that promote innovative approaches to high-quality public school choice. New section 5301(b) of the ESEA would prohibit grants under this part from exceeding three years.

New section 5303(a) of the ESEA would authorize funds under the part to be used to demonstrate, develop, implement, evaluate, and disseminate information on innovative approaches to broaden public school choice. Examples of such approaches at the school, district, and State levels would be: (1) inter-district approaches to public school choice, including approaches that increase equal access to high-quality educational programs and diversity in schools; (2) public elementary and secondary programs that involve partnerships with institutions of higher education and that are located on the campuses of those institutions; (3) programs that allow students in public secondary schools to enroll in postsecondary courses and to receive both secondary and postsecondary academic credit; (4) worksite satellite schools, in which State or local educational agencies form partnerships with public or private employers, to create public schools at parents' place of employment; and (5) approaches to school desegregation that provide students and parents choice through strategies other than magnet schools.

New section 5303(b) of the ESEA would require that funds under this part: (1) supplement, and not supplant, non-federal funds expended for existing programs; (2) not be used for transportation; and (3) not be used to fund projects that are specifically authorized under Parts A and B of this title.

New section 5304(a) of the ESEA would require a State or local educational agency desiring to receive a grant under this part to submit an application to the Secretary, in such form and containing such information, as the Secretary may require. Each application would be required to include: (1) a description of the program for which funds are sought and the goals for such program; (2) a description of how the program funded under this part will be coordinated with, and will complement and enhance, programs under other related Federal and non-federal projects; (3) if the program includes partners, the name of each partner and a description of its responsibilities; (4) a description of the policies and procedures the applicant will use to ensure its

accountability for results, including its goals and performance indicators, and that the program is open and accessible to, and will promote high-academic standards for, all students. The Secretary would be authorized to give special consideration to applications demonstrating that the applicant will carry out its project in partnership with one or more public and private agencies, organizations, and institutions, including institutions of higher education and public and private employers.

New section 5305(a) of the ESEA would authorize such sums as may be necessary for each of the fiscal years 2001 through 2001 to be appropriated to carry out the part. Section 5305(b) of the ESEA would, from amounts appropriated for any fiscal year, authorize the Secretary to reserve not more than five percent to carry out evaluations, provide technical assistance, and disseminate information. Section 5305(c) would authorize the Secretary to use funds reserved under subsection (b) to carry out one or more evaluations of programs assisted under this part. Those evaluations would, at a minimum, address: (1) how and the extent to which the programs supported with funds under the part promote educational equity and excellence; and (2) the extent to which public schools of choice supported with funds under the part are held accountable to the public, effective in improving public education, and open and accessible to all students.

###

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME:12-MAR-1999 07:48:49.00

SUBJECT: RECEIVED: POTUS Final 3/12

TO: Rachel A. Redington (CN=Rachel A. Redington/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TEXT:
RETURN RECEIPT

Your Document:
POTUS Final 3/12
was successfully received by:
CN=Elena Kagan/OU=OPD/O=EOP
at:
03/12/99 07:45:52 AM

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:15-MAR-1999 16:13:24.00

SUBJECT: Re: Conferees

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

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

TEXT:

You're certainly right as to the message.

Do we need to get veto language out there right away, or doesn't it matter?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-MAR-1999 10:20:11.00

SUBJECT: Re: April 8th

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

READ:UNKNOWN

TEXT:

sounds great

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:16-MAR-1999 10:21:57.00

SUBJECT: Re: guidance today

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

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

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

TEXT:

Tobacco, police brutality, and patients' are all the same (tobacco and patients' from yesterday, police brutality from last week). We're working on Medicare now.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAR-1999 19:28:46.00

SUBJECT: Re: Single Sex Education and Admissions

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

READ:UNKNOWN

TEXT:

where are the agencies these days?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAR-1999 13:35:15.00

SUBJECT: slight revised

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

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 03/17/99 01:37 PM -----

Christopher C. Jennings
03/17/99 01:21:48 PM
Record Type: Record

To: Elena Kagan/OPD/EOP
cc:
Subject: slight revised

----- Forwarded by Christopher C. Jennings/OPD/EOP on 03/17/99 01:24 PM -----

Sarah A. Bianchi @ OVP
03/17/99 01:14:23 PM
Record Type: Record

To: Barry J. Toiv/WHO/EOP, Christopher C. Jennings/OPD/EOP
cc:
Subject: slight revised

one sentence gone and paragraphs together

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D28]MAIL42234338L.036 to ASCII,
The following is a HEX DUMP:

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**STATEMENT BY THE PRESIDENT ON
THE PATIENTS' BILL OF RIGHTS
March 17, 1999**

Today, the Congress is beginning its first mark up on patients' rights legislation. I am pleased that we are moving forward this issue that is critical to assuring Americans high quality health care. Unfortunately, the Chairman's mark appears to fall far short of providing patients with the protections they need. Because it only applies these rights to those in self-insured plans, it leaves 100 million Americans in insured plans without the guarantee of critical protections.

While states have the authority to pass patient protections for these plans, not one has passed all of these protections. For example, dozens of states have not passed access to specialist provisions or continuity of care protections to assure that patients do not have to change doctors in the middle of a critical treatment such as cancer or a pregnancy. Tens of millions of Americans should not be held hostage to the hope that their state may pass bills on all these protections. We need strong Federal legislation to assure all health plans provide patients these important rights.

Moreover, the Chairman's mark leaves out many of the most fundamental protections. For example, it does not have an adequate enforcement mechanism to assure patients are compensated when they are injured or die as a result of a health plans' decisions; it does not assure patients access to specialists, such as oncologists or heart specialists; and it leaves out continuity of care protections. **That is why every major patient, doctor, and nurse advocacy organization has concluded that the Chairman's mark is simply inadequate.**

Today represents the first test of this new Congress to see if it is serious about providing Americans with a strong enforceable patients' bill of rights to assure high quality health care. I urge the Committee to do everything it can to pass this test and give Americans the protections they need.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAR-1999 10:50:26.00

SUBJECT: here you go

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

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 03/17/99 10:52
AM -----

Devorah R. Adler
03/17/99 10:42:09 AM
Record Type: Record

To: Elena Kagan/OPD/EOP
cc:
Subject: here you go

I apologize about the mix-up -- here it is with your edits.

Devorah

Q: What is the President's response to the Patients' Bill of Rights legislation that will be marked up by the Senate Labor Committee this Wednesday?

A: We have not seen the details of the legislation Senator Jeffords intends to mark up this Wednesday, but all indications are that it will fall far short of what is necessary to meet the needs of patients in a rapidly changing health care system. We understand that it will not cover tens of millions of Americans; that it will not have a standard to prevent HMOs from making arbitrary coverage decisions; and that it will have a wholly inadequate mechanism to enforce patients' rights. This helps explain why every major patient, doctor, and nurse advocacy organization has concluded that the Chairman's mark is flawed and falls far short of what is needed to protect patients.

Senator Kennedy and the rest of the Committee Democrats are planning on offering amendments that, if passed, would make this legislation acceptable to the President. It is our hope that Senator Jeffords and the rest of the Committee works towards passing a strong, comprehensive, and bipartisan Patients Bill of Rights that the President can sign. Today represents the first test of this new Congress to see if it is serious about patient protections. (This is the first Committee mark-up on the Patients' Bill of Rights in this Congress). The President is urging that the Committee to do everything it can to pass this test with flying colors.

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME:17-MAR-1999 15:05:35.00

SUBJECT: RECEIVED: 5:45 pm Mtg TODAY

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

TEXT:
RETURN RECEIPT

Your Document:
5:45 pm Mtg TODAY
was successfully received by:
CN=Elena Kagan/OU=OPD/O=EOP
at:
03/17/99 02:57:36 PM

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAR-1999 13:22:24.00

SUBJECT: Re: I've also made some changes in this -- pls check ASAP to make sure it's ok.

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

READ:UNKNOWN

TEXT:

looks good

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAR-1999 10:03:57.00

SUBJECT: ONDCP Press Availability/IOM Study

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

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

TEXT:
----- Forwarded by Elena Kagan/OPD/EOP on 03/17/99 10:06 AM -----

Jose Cerda III
03/16/99 12:31:30 PM
Record Type: Record

To: Karen Tramontano/WHO/EOP
cc: Elena Kagan/OPD/EOP, Bruce N. Reed/OPD/EOP, Leanne A. Shimabukuro/OPD/EOP
Subject: ONDCP Press Availability/IOM Study

Karen:

Elena asked that I send you a note to let you know that we spoke to ONDCP, and that they said that General McCaffrey is committed to doing a press availability on the IOM-Medical Marijuana study tomorrow. After two years of pointing to the study, he feels obligated to go on the record when it is released -- and, despite our suggestion, is not willing to pull back.

I have attached McCaffrey's proposed statement and the Q&A prepared by his staff. If you still have concerns about the press availability, you or John will probably need to connect w/him directly. As you know, he doesn't feel obliged to take guidance from us on this or any other matter he views as his responsibility.

Jose'

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

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D15]MAIL404395289.036 to ASCII,
The following is a HEX DUMP:

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Q & A's for the Director on the IOM Report
Prepared by Dan Schecter, Kate Malliarakis, Carol Gibson
March 15, 1999

- 1. Does this report validate the message sent by voters in California, Arizona, Alaska, Washington, Oregon, Nevada?**
 - I've said before that using the ballot to decide what should become medicine is like asking the voters to make air traffic control decisions. We have always said and we continue to affirm that science, not the ballot box, should determine the practice of medicine.
 - The report says that it is impossible to estimate the clinical value of marijuana and cannabinoids based on anecdotal reports. (Page 1.19 IOM Report) This report does not address the political process that makes marijuana available to medically needy individuals. And, it doesn't address public policy questions such as the distribution of marijuana. But, the sense of the report indicates that distribution marijuana through places like Cannabis Buyers clubs would be inconsistent with sensible scientific practices.

- 2. Will ONDCP's position on the medical use of marijuana change as a result of this report?**
 - Actually this report supports ONDCP's position, as it highlights the need for targeted research on the compounds in marijuana that may be helpful to those in medical need.
 - Medical advancement means rigorous testing before a new drug is released to the public. To recognize this reality is not to shut out the possibility of merit in the cannabis plant but it is to reject exaggerated, at times magical, claims for marijuana.

- 3. The very first recommendation of the IOM study is to conduct more research into the effects of cannabinoids. Yet it is impossible to get marijuana in order to conduct research. Will you use the influence of your position to see that access to marijuana is placed on the "fast track" so that legitimate researchers can conduct the research called for in the IOM study?**
 - The Federal government has established a process for determining the safety and efficacy of drugs. It is a process that has been in place and has proven to work. I will continue to work with NIDA and FDA and NIH to ensure that this process is efficient and still protects the American public.

4. **The study very emphatically states (Page ES.7) that there is “no conclusive evidence that the drug effects of marijuana are causally linked to the subsequent abuse of other illicit drugs.” What does this say about the “Gateway Theory” that you have held?**

- The study actually supports the fact that most drug users begin with nicotine, move to alcohol, and then to marijuana. The new point brought out in this report is that the use of marijuana for medical purposes does not fall into the “gateway theory.”
- The significant point is that this study says that we need more research to determine just exactly where and how research on the compounds of marijuana should be conducted.

5. **Now that the IOM has concluded that there are potential medical benefits to marijuana, will the Federal government continue to arrest and incarcerate sick people who use the drug for pain relief?**

- There is nothing in the IOM report that concludes that there are benefits to smoked marijuana. In fact, the IOM report states that “smoked marijuana is unlikely to be a safe medication for any chronic medical condition.” (Page 3.48)
- This question goes to the crux of the problem. On one hand, we have people who want an excuse to smoke marijuana to get high, claiming that they have debilitating medical conditions. On the other hand, we have a small group of terminally ill people who believe (rightly or wrongly) that marijuana offers them some relief.
- Federal law enforcement policy will continue to be as it has been--focused on drug traffickers.
- What we really need is for pharmaceutical companies to develop alternative delivery systems for the compounds in marijuana.

6. **Will you now concede that there is medicinal value to marijuana?**

- The IOM report raises serious questions about the medicinal value of smoked marijuana.
- We’ve always supported the use of synthetic THC--dronabinol--in treating certain illnesses. The issue is smoked marijuana.
- What we need are alternative delivery systems to ensure that those few people who can’t take dronabinol have an effective means of deriving whatever benefits are available in THC without the harmful effects of smoke.

FOR IMMEDIATE RELEASE
Wednesday, March 17, 1999

CONTACT: Bob Weiner
(202) 395-6618

**WHITE HOUSE DRUG POLICY OFFICE ISSUES STATEMENT
ON INSTITUTE OF MEDICINE'S REPORT
ON MARIJUANA AND MEDICINE**

(Washington, D.C.) – The White House Office of National Drug Policy (ONDCP) issued the following statement today following the release of the Institute of Medicine's report *Marijuana and Medicine: Assessing the Science Base*:

In January 1997, ONDCP asked the Institute of Medicine to conduct a review of the scientific evidence for assessing the potential health benefits and risks of marijuana and its constituent cannabinoids. ONDCP believed that an objective and independent evaluation of research regarding the use of marijuana for medicinal purposes was appropriate given the ongoing debate about cannabis and its health effects.

The report released today by the Institute of Medicine represents the most thorough analysis to date of the relevant scientific literature. It summarizes recent advances in molecular and behavioral neuroscience, in particular newly elaborated systems of transmitters, receptors, and antagonists – all illuminating the physiological effects of cannabinoids. The Institute of Medicine has addressed all issues that ONDCP requested be examined, including: the science base and gaps in scientific knowledge regarding use of marijuana for medicinal purposes; scientific information about marijuana's mechanism of action; peer-reviewed literature on the uses of marijuana; and costs associated with various forms of the component chemical compounds in marijuana and other pharmacotherapies for special medical conditions. We thank the principal investigators, members of the advisory panel, biomedical and social scientists, patients, advocates, report reviewers, and all who supported the Institute of Medicine in developing this comprehensive report.

The report contains six specific recommendations that address:

1. Continued research into the physiological effects of cannabinoids.
2. Clinical trials of cannabinoid drugs for symptom management.
3. Evaluation of psychological effects of cannabinoids in clinical trials.
4. Studies of individual health risks in smoking marijuana.
5. Clinical trials of marijuana use under limited circumstances for medical purposes.
6. Short-term use of smoked marijuana under strict conditions for patients with debilitating symptoms.

These recommendations are supported by the following observations:

- Scientific data indicate the potential therapeutic value of cannabinoids for pain relief, control of nausea and vomiting, and appetite stimulation. This value would be enhanced by a rapid onset of drug effect.
- The psychological effects of cannabinoids are probably important determinants of their potential therapeutic value. They can influence symptoms indirectly, which could create false impressions of the drug effect or be beneficial as a form of adjunctive therapy.
- Numerous studies suggest that marijuana smoke is an important risk factor in the development of respiratory diseases, but the data that could conclusively establish or refute this suspected link have not been collected.
- Because marijuana is a crude THC delivery system that also delivers harmful substances, smoked marijuana generally should not be recommended for medical use. Nonetheless, marijuana is widely used by certain patient groups, which raises both safety and efficacy issues.
- If there is any future for marijuana as medicine, it lies in its isolated components -- the cannabinoids and their synthetic derivatives. Isolated cannabinoids will provide more reliable effects than crude plant mixtures. Therefore, the purpose of clinical trials of smoked marijuana would not be to develop marijuana as a licensed drug, but such trials could be a first step towards the development of rapid-onset, nonsmoked cannabinoid delivery systems.

ONDCP appreciates the contributions made by the Institute of Medicine to the debate on the medical efficacy and safety of cannabinoids. We will carefully study the recommendations and conclusions contained in this report. We will continue to rely on the professional judgement of the Secretary of Health and Human Services, the Director of the National Institutes of Health, and the Surgeon General on all issues related to the medical value of marijuana and its constituent cannabinoids. We note the report's conclusion that "the future of cannabinoid drugs lies not in smoked marijuana, but in chemically-defined drugs that act on the cannabinoid systems that are a natural component of human physiology." We look forward to the considered responses from our nation's public health officials to the interim solutions recommended by the report.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAR-1999 14:33:35.00

SUBJECT: Long Term Scheduling Meeting

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

READ:UNKNOWN

TEXT:

please schedule

----- Forwarded by Elena Kagan/OPD/EOP on 03/17/99 02:35
PM -----

Karin Kullman

03/17/99 02:11:50 PM

Record Type: Record

To: Elena Kagan/OPD/EOP

cc:

Subject: Long Term Scheduling Meeting

FYI -- In preparation for tomorrow's 5pm long term planning meeting, I am planning to meet with Bruce around 2pm tomorrow to go over the running list of event ideas I have from the staff.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:17-MAR-1999 13:22:58.00

SUBJECT: Re: I made some changes -- is it still ok?? Pls respond ASAP. Thanks.

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

READ:UNKNOWN

TEXT:

yours looks great. we're sending down a version with one additional change. thanks

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAR-1999 10:24:33.00

SUBJECT: Re: one more! sorry

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

TEXT:

It would be really helpful if we could one list as early in the morning as possible. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAR-1999 11:54:36.00

SUBJECT: second try

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

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 03/18/99 11:57 AM -----

Devorah R. Adler
03/18/99 11:49:54 AM
Record Type: Record

To: Elena Kagan/OPD/EOP
cc:
Subject: second try

here you go.

Q: What is the President's response to the Patients' Bill of Rights legislation that is presently being marked up by the Senate Labor Committee?

A: The legislation Senator Jeffords intends to mark up today falls far short of what is necessary to meet the needs of patients in a rapidly changing health care system. It will not cover tens of millions of Americans; it will not have a standard to prevent HMOs from making arbitrary coverage decisions; and it will have a wholly inadequate mechanism to enforce patients' rights. This helps explain why every major patient, doctor, and nurse advocacy organization has concluded that the Chairman's mark is flawed and will not adequately protect patients.

Clearly, we are disappointed that the Democratic substitute bill did not receive a majority vote. However, we believe that this legislation can, must, and will be improved as the legislative process proceeds. Today and tomorrow there will be a number of strengthening amendments to the underlying Chairman's mark which we hope will receive consideration. Regardless we agree with Senators Daschle and Kennedy that this bill will be improved on the Senate floor when the entire public is focused on a debate of the issues at stake.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL).

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

CREATION DATE/TIME:18-MAR-1999 11:58:46.00

SUBJECT: Re: tobacco q&a for 3/18

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

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

TEXT:

I don't think Joe will get questions, but if he does, he should just say that we've never looked into this question, but will review any lawsuit making this claim against the tobacco companies.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAR-1999 11:59:49.00

SUBJECT: second try

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

READ:UNKNOWN

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 03/18/99 12:02 PM -----

Devorah R. Adler
03/18/99 11:49:54 AM
Record Type: Record

To: Elena Kagan/OPD/EOP
cc:
Subject: second try

here you go.

Q: What is the President's response to the Patients' Bill of Rights legislation that is presently being marked up by the Senate Labor Committee?

A: The legislation Senator Jeffords intends to mark up today falls far short of what is necessary to meet the needs of patients in a rapidly changing health care system. It will not cover tens of millions of Americans; it will not have a standard to prevent HMOs from making arbitrary coverage decisions; and it will have a wholly inadequate mechanism to enforce patients' rights. This helps explain why every major patient, doctor, and nurse advocacy organization has concluded that the Chairman's mark is flawed and will not adequately protect patients.

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAR-1999 10:58:15.00

SUBJECT: Re: one more! sorry

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

TEXT:

no problem. I'm well aware that we often miss your deadlines even though you've gotten your list to us promptly at 9:00.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAR-1999 17:34:19.00

SUBJECT: Re: helms v.picard

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

READ:UNKNOWN

TEXT:

You don't happen to have them, do you?

By the way, Judy Winston tells me the Secretary is pretty hard over on this issue (even after Judy briefed him on Seth's reasoning), though he has agreed to meet with Seth later this week or early next.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAR-1999 10:22:17.00

SUBJECT: Re: guidance

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

TEXT:

no new q &a on ed flex or medicare. new tobacco q&a will be down in a moment.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAR-1999 17:28:51.00

SUBJECT: Re: Single Sex Education and Admissions

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

TEXT:

thanks. chuck should set something up whenever he wants.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAR-1999 11:57:39.00

SUBJECT: Re: tobacco q&a for 3/18

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

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

TEXT:

I doubt Joe will get questions, but if he does, he should just say that we've never explored this issue, but will review any future lawsuit that makes this claim against the companies.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:18-MAR-1999 11:59:03.00

SUBJECT: second try

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

READ:UNKNOWN

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 03/18/99 12:01 PM -----

Devorah R. Adler
03/18/99 11:49:54 AM
Record Type: Record

To: Elena Kagan/OPD/EOP
cc:
Subject: second try

here you go.

Q: What is the President's response to the Patients' Bill of Rights legislation that is presently being marked up by the Senate Labor Committee?

A: The legislation Senator Jeffords intends to mark up today falls far short of what is necessary to meet the needs of patients in a rapidly changing health care system. It will not cover tens of millions of Americans; it will not have a standard to prevent HMOs from making arbitrary coverage decisions; and it will have a wholly inadequate mechanism to enforce patients' rights. This helps explain why every major patient, doctor, and nurse advocacy organization has concluded that the Chairman's mark is flawed and will not adequately protect patients.

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:19-MAR-1999 09:40:25.00

SUBJECT: Re: for the president

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

TEXT:

I don't think there's any way the President will get asked about yesterday's verdict. He may well get asked about losing the recoupment vote in the Senate 71-29, and we'll get you revised q&a reflecting that vote. Also, we'll have revised q&a on patients'

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:20-MAR-1999 07:52:08.00

SUBJECT: Additional budget paper

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

TEXT:
please print

----- Forwarded by Elena Kagan/OPD/EOP on 03/20/99 07:54 AM -----

Melissa G. Green
03/19/99 06:43:28 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: Additional budget paper

----- Forwarded by Melissa G. Green/OPD/EOP on 03/19/99 06:44 PM -----

Charles R. Marr
03/19/99 06:32:52 PM
Record Type: Record

To: Melissa G. Green/OPD/EOP
cc:
Subject: Additional budget paper

Melissa -- can you blast email.

These are additional one-pagers on Republican budget:

Urban
Environment
Education and Training

Message Sent

To: _____
Joshua S. Gottheimer/WHO/EOP
Dominique L. Cano/WHO/EOP
Chandler G. Spaulding/WHO/EOP
Jonathan A. Kaplan/OPD/EOP

Lael Brainard/OPD/EOP
HorwitzR @ sec.gov @ INET @ LNGTWY
Gay L. Joshlyn/OPD/EOP
Sarah Rosen/OPD/EOP
Jonathan A. Kaplan/OPD/EOP
Thomas A. Kalil/OPD/EOP
Jeanne Lambrew/OPD/EOP
Sonyia Matthews/OPD/EOP
Dorothy Robyn/OPD/EOP
Richard L. Siewert/WHO/EOP
MITSLER_E @ A1 @ CD @ LNGTWY
Charles R. Marr/OPD/EOP
David J. Sherman/NSC/EOP
Doris Parker/WHO/EOP
Malcolm R. Lee/OPD/EOP
Daniel D. Heath/OMB/EOP
Brian A. Barreto/OPD/EOP
Sally Katzen/OPD/EOP
Dora Kale/NSC/EOP
Peter A. Weissman/OPD/EOP
Sharon H. Yuan/OPD/EOP
Richard M. Samans/OPD/EOP
Jessica L. Gibson/WHO/EOP
Mindy E. Myers/WHO/EOP
Cathy R. Mays/OPD/EOP
Laura Emmett/WHO/EOP
Jason H. Schechter/WHO/EOP
Jennifer M. Palmieri/WHO/EOP
Jade L Riley/WHO/EOP
Dario J. Gomez/WHO/EOP
Heather M. Riley/WHO/EOP
Maria E. Soto/WHO/EOP
Ruby Shamir/WHO/EOP
Dawn L. Smalls/WHO/EOP
Sara M. Latham/WHO/EOP
Karen Tramontano/WHO/EOP
Carolyn T. Wu/WHO/EOP
Jonathan E. Smith/WHO/EOP
Tracy Pakulniewicz/WHO/EOP
Robert L. Nabors/OMB/EOP
Adrienne C. Erbach/OMB/EOP
Victoria A. Wachino/OMB/EOP
Joshua Gotbaum/OMB/EOP
Sandra L. Via/OMB/EOP
Janet L. Graves/OMB/EOP
Elizabeth R. Newman/WHO/EOP
Alice H. Williams/CEA/EOP
Michele Jolin/CEA/EOP
Paul J. Weinstein Jr./OPD/EOP
Mona K. Sutphen/NSC/EOP
Rebecca L. Walldorff/WHO/EOP
Jackson T. Dunn/WHO/EOP
Cheryl M. Carter/WHO/EOP
Robin J. Bachman/WHO/EOP
Lowell A. Weiss/WHO/EOP
Mona G. Mohib/WHO/EOP
Richard L. Siewert/WHO/EOP
Jonathan A. Kaplan/OPD/EOP
Linda Ricci/OMB/EOP
Jennifer M. Palmieri/WHO/EOP
Stacie Spector/WHO/EOP
Eli G. Attie/OVP @ OVP
Jessica L. Gibson/WHO/EOP

Brenda M. Anders/WHO/EOP
Brenda M. Anders/WHO/EOP
Kris M Balderston/WHO/EOP
Richard B. Bavier/OMB/EOP
Marsha E. Berry/WHO/EOP
Jill_M_Blickstein @ Ianmail.fanniema.com @ inet
David Belsky/WHO/EOP
Phillip Caplan/WHO/EOP
Cheryl M. Carter/WHO/EOP
Brenda B. Costello/WHO/EOP
MCrisci @ arnellgroup.com @ inet
Betty W. Currie/WHO/EOP
Michael Deich/OMB/EOP
Thomas L. Freedman/OPD/EOP
Diane M. Goldberg/WHO/EOP
Daniel D. Heath/OMB/EOP
Nancy V. Hernreich/WHO/EOP
Eli P. Joseph/WHO/EOP
Christopher C. Jennings/OPD/EOP
Elena Kagan/OPD/EOP
Thomas A. Kalil/OPD/EOP
Jonathan A. Kaplan/OPD/EOP
Charles Konigsberg/OMB/EOP
Karin Kullman/OPD/EOP
Robert D. Kyle/OMB/EOP
Jeanne Lambrew/OPD/EOP
Ann F. Lewis/WHO/EOP
Jacob J. Lew/OMB/EOP
Bruce R. Lindsey/WHO/EOP
Julie E. Mason/WHO/EOP
Sylvia M. Mathews/OMB/EOP
Douglas R. Matties/OA/EOP
Cathy R. Mays/OPD/EOP
Anne E. McGuire/WHO/EOP
Anne E. McGuire/WHO/EOP
Joseph J. Minarik/OMB/EOP
Linda L. Moore/WHO/EOP
Kevin S. Moran/WHO/EOP
Janet Murguia/WHO/EOP
Alison Muscatine/WHO/EOP
Bob J. Nash/WHO/EOP
Kelley L. O'Dell/WHO/EOP
John Podesta/WHO/EOP
Ashley L. Raines/OA/EOP
Bruce N. Reed/OPD/EOP
Dorothy Robyn/OPD/EOP
Laura D. Schwartz/WHO/EOP
Richard L. Siewert/WHO/EOP
Ronald L. Silberman/OMB/EOP
Douglas B. Sosnik/WHO/EOP
Jordan Tamagni/WHO/EOP
Barry J. Toiv/WHO/EOP
Michael Waldman/WHO/EOP
Paul J. Weinstein Jr./OPD/EOP
Lisa M. Kountoupes/WHO/EOP
Brian D. Smith/WHO/EOP
Sara M. Latham/WHO/EOP
Thomas D. Janenda/WHO/EOP
Charles R. Marr/OPD/EOP
Beverly J. Barnes/WHO/EOP
Barbara D. Woolley/WHO/EOP
Robert B. Johnson/WHO/EOP
Cynthia A. Rice/OPD/EOP

Republican Budget Shortchanges Urban America

March 19, 1999

Building on the success of six years of fiscal discipline and the virtuous economic cycle it created, President Clinton has proposed a budget that includes a more than \$3.4 trillion debt reduction lock-box that extends the solvency of Social Security until 2055 and extends Medicare's solvency for more than a decade. It invests in education and a cleaner environment, and a stronger urban America.

To build on the President and Vice President's strong foundation of community empowerment initiatives -- which includes programs to promote greater access to capital and credit, more affordable housing, and spur the creation of private investment and job creation -- the FY2000 budget includes proposals to:

- _ Expand the Low Income and Housing Tax Credit.
- _ Make the brownfields tax expensing provision permanent.
- _ Create Better America Bonds to allow communities to create parks and open spaces.
- _ Spur private investment in distressed neighborhoods through a new markets initiative.
- _ Expand the welfare-to-work housing voucher program.

The Republicans have responded with a proposal that puts top priority on a tax cut which explodes in cost and is targeted away from the middle class. Because the tax cut is so large and consumes the entire on-budget surplus, the funds available for critical investments in urban America are squeezed dramatically:

The Republican budget would require a more than 10 percent cut in 2000 and over 20 percent cut in 2004 unprotected discretionary programs. This would have a devastating impact on programs critical to our urban areas:

- **The cut to HUD's HOME program would deny tenant-based rental assistance to 1,300 families. Further, funds would be lost for new construction, rehabilitation, or acquisition of over 10,000 affordable housing units.**
- **The Republicans' reductions would wipe out the Administration's proposal of adding 100,000 new housing vouchers, including 25,000 to help move families from welfare to work, 18,000 for the homeless, and 15,000 for extremely low-income elderly.**
- **The Community Development Financial Institutions Fund (CDFI) would be reduced by over \$11 million, with the result that 16 fewer community development institutions (CDFIs) would receive capital funding and 12 fewer financial institutions would receive Bank Enterprise Act grants. By 2004, the Republican budget would reduce CDFI's funding by \$26 million, eliminating federal assistance to 37 CDFIs and 28 commercial CDFI lenders.**

A low priority in the Republican budget: Programs critical to urban America would be at risk because of the squeeze on the overall discretionary funds proposed. The assumptions made in the Republican budget resolutions show that programs important to urban America would be a low priority in competition for those funds:

- **The Senate Budget Resolution proposes \$5.3 billion in 2000 for community and regional development, \$3.4 billion or 39.2 percent less than a freeze and \$3.6 billion or 40.7 percent less than the President's budget. This would mean a massive reduction to the Community Development Block Grant Program (CDBG), one of the most popular and flexible sources of funds that mayors and governors use to improve economic opportunity and housing in low-income communities. Thousands of local neighborhood improvement efforts would be jeopardized. Cuts of 40 percent in this set of HUD programs would translate into a loss of assistance to 82,000 homes and loss of support for 114,000 jobs in low-income areas.**

The Republican Budget: Sacrificing Our Environment and Public Health

President Clinton is proposing a record \$33.9 billion in FY 2000 to protect our environment and public health, including major new initiatives to preserve America's lands legacy, combat air pollution and global warming, and help build livable communities for the 21st century.

The Republican budget not only fails to fund these environmental priorities, but imposes drastic cuts that would stop toxic waste cleanups, shut down national parks, cripple water quality programs, and heighten the risk of deadly wildfires.

The Republican budget slashes funding for priority domestic programs 12 percent in FY 2000 and 28 percent in 2004. Across-the-board cuts would have these devastating impacts on public health and the environment:

- ***Stopping 135 Toxic Waste Cleanups*** - The Republican budget would cut Superfund by a total of \$1.5 billion over the next five years, needlessly jeopardizing public health by preventing as many as 135 priority cleanups nationwide -- 92 percent of the federally led cleanups planned.
- ***Shutting Down National Parks*** - Cuts to the National Park Service would reduce services and hours of operation at 378 parks and other facilities serving almost 300 million visitors a year. In FY 2004, \$575 million in cuts would shut down many smaller parks and backcountry areas in larger parks, and jeopardize visitor safety by blocking vital maintenance and repairs.
- ***Squandering Our Lands Legacy*** - By failing to fund the President's Lands Legacy initiative, the Republican budget would block federal efforts to preserve natural treasures, and deny states and communities \$588 million to protect farmland, coastland, urban parks and other green spaces.
- ***Slashing Water and Public Health Protections*** - By FY 2004, cuts to the Environmental Protection Agency would eliminate funding for the Clean Water Action Plan, which helps communities clean up the 40 percent of surveyed waters still too polluted for fishing or swimming; and let polluters off the hook by crippling EPA's ability to enforce public health protections.
- ***Gambling with Global Warming*** - Cuts to the Department of Energy and EPA would gut efforts toward cleaner, more efficient energy for homes, transportation, and industry; and keep the Partnership for a New Generation of Vehicles from meeting its goal of new cars three times more fuel-efficient than today's models by 2004.
- ***Crippling Wildlife Protections*** - Cuts to the Fish and Wildlife Service, National Oceanic and Atmospheric Administration, and Army Corps of Engineers would hamper salmon restoration in the Pacific Northwest, shut down wildlife refuges, and halt efforts to restore endangered species.
- ***Raising the Risk of Deadly Wildfires*** - FY 2000 cuts to the Forest Service and Bureau of Land Management would close some lands to the public and reduce firefighting capabilities. A total of \$700 million in FY 2004 cuts for these two agencies would cripple firefighting capabilities, jeopardizing lives and property throughout the West.

Republican Budget

Shortchanges Education and Training

March 19, 1999

Building on the success of six years of fiscal discipline and the virtuous economic cycle it created, President Clinton has proposed a budget that includes a more than \$3.4 trillion debt reduction lock-box that extends the solvency of Social Security until 2055 and extends Medicare's solvency for more than a decade. The President's budget continues to place top priority on investments in education, including:

- **Performance Accountability:** \$200 million in Title I to hold States and school districts more accountable for raising student achievement.
- **21st Century Community Learning Centers/After-School and Summer School Programs:** \$600 million for the 21st Century/After-School program, an increase of \$400 million over the FY 1999 level to help schools end social promotion through extended learning time.
- **New Qualified Teachers and Smaller Class Sizes:** \$1.4 billion as the second installment of the President's plan to help schools recruit, hire, and train 100,000 new teachers by 2005 and reduce class size in the early grades.
- **Tax Credits to Build Modern Schools for Our Children.** A centerpiece of the President's tax cut agenda is to provide Federal tax credits to support nearly \$25 billion in bonds to build and renovate public schools at a cost of \$3.7 billion over 5 years.
- **A \$963 Million Three-Part Initiative To Close America's Skills Gap:** 1) \$190 million increase for adult education and family literacy initiative. 2) \$368 Million increase for a universal re-employment initiative. 3) \$405 million increase for a youth employment initiative.
- **Expanding Head Start:** A \$607 million increase that will add 42,000 new slots for young children, including 7,000 Early Head Start slots, for total enrollment of 877,000 and on track to meet the one million participation goal by 2002.

The Republicans have responded with a proposal that puts top priority on a tax cut which explodes in cost and is targeted away from the middle class. Republicans have talked about making education a higher priority, but the actions in this budget are in the other direction. Because the tax cut is so large and consumes the entire on-budget surplus, the funds available for critical investments in education would be squeezed dramatically.

The Republican budget would require a more than 10 percent cut in 2000 and over 20 percent cut in 2004 unprotected discretionary programs. This would have a devastating impact on critical education, training, and other programs for children:

- **Head Start** funding would be less than FY 1998 levels, a reduction of \$1.1 billion from the FY 2000 Budget. A reduction of this magnitude would roll back all expansion progress made under the Clinton Administration, cutting services to up to 100,000 children, and making it practically impossible to reach the goal of serving one million children in Head Start by 2002. By 2004, Head Start enrollment would drop below FY 1999 levels by over 230,000 children.
- **Work Study** would be cut by \$106 million from the FY 1999 level of \$870 million, to the lowest level since FY 1996. The number of students served would decrease by 112,000, from 930,000 in FY 1999. If the Republican plan were assumed to continue through FY 2004, over a quarter of a million fewer students (257,000) would have the chance to work their way through college than in FY 1999.

- **TRIO** funding would decrease by \$73 million, from \$600 million in FY 1999. As a result, approximately 117,000 fewer students would receive college preparation and support services in FY 2000 than in FY 1999. By FY 2004, the Republican plan would cut 224,000 disadvantaged students from TRIO programs.
- **GEAR-UP** would be reduced \$15 million, from \$120 million in FY 1999. This funding level would not be sufficient to fund non-competing continuation awards from FY 1999. Approximately 5,900 fewer low-income students would receive early intervention services in FY 2000 than in FY 1999. The Republican plan would further cut GEAR-UP so that more than 36,000 fewer students would receive services in FY 2004 than in FY 1999.
- **Dislocated Worker Assistance** would be cut by \$171 million below FY 1999, denying training, job search assistance, and support services to about 90,200 dislocated workers. In FY 2004, the Republican plan would deny services to over 205,600 dislocated workers.
- About 73,100 **training and summer job opportunities for low-income youth** would be eliminated. In FY 2004, about 166,000 low-income youth would be denied training and summer job opportunities.
- This reduction could terminate **Jobs Corps'** planned 4-center expansion and/or force Job Corps to close 5-6 other centers in 2000. This could eliminate about 5,000 residential training slots for extremely disadvantaged youth in 2000. In 2004, this could result in over 11,000 students being denied the opportunity to participate in Job Corps.
- The **Child Care and Development Block Grant (CCDBG)** would be reduced by \$122 million, eliminating child care assistance for up to 34,000 low-income children. By 2004, the number of children receiving assistance would drop below FY 1999 levels by up to 79,000 children.
- **WIC** funding would be cut to below FY 1995 levels, a reduction of over \$480 million from the FY 1999 level of \$3.9 billion, eliminating nutrition assistance for over 875,000 low income women, infants, and children each month. Furthermore, if the Republican plan were assumed to continue through FY 2004, funding for the program would be reduced by \$1.1 billion below the FY 1999 funding level, cutting approximately 1.9 million participants from the program.

IN A 21st CENTURY FINANCIAL MARKETPLACE

March 18, 1999 -- First Draft

A revolution in technology and increased competition in financial services give Americans more numerous and complex financial choices than ever before. Consumers should have the tools to profit from these new opportunities and protection from new abuses. Certainly, many consumers already benefit from this financial revolution -- they have greater access to credit, can comparison shop for mortgage rates on the Internet, and use credit cards to earn frequent flyer miles. But new products have brought new risks and new opportunities for predatory practices. We must update our consumer protection laws and practices to adapt to a changing marketplace.

THE CLINTON-GORE PLAN

Today, President Clinton unveiled a package of legislative proposals and executive actions to protect consumers and their privacy in the new economy. It is based on five principles: (1) Protect financial privacy; (2) Expand the consumer's right-to-know; (3) Prevent fraud and abusive practices; (4) Expand access to financial services; and (5) Educate consumers and improve financial literacy. The following proposals were among those announced.

PROTECT FINANCIAL PRIVACY

Vice President Gore has led the Administration's efforts to identify needed privacy protections. He understands that consumers value the privacy of financial and credit records, second only to medical privacy. Yet a technological revolution is now making it possible and profitable to use financial data in ways never possible before. Existing law allows a bank, broker, or insurance company to share information with a third party or their own affiliate about your transactions (account balances, who you write checks to, how much, insurance payments, stock purchases, etc.). Most consumers would be shocked to learn that the law treats this information as belonging to the bank -- not to the consumer. Moreover, with the increasing number of insurance companies and banks merging, the banks now have access to some consumer medical records. A consumer who undergoes a physical exam to obtain insurance should not have to fear that the information could be used to lower their credit card limit or deny them a mortgage. The Clinton-Gore Administration says that:

- **Consumers must be told what information an institution would share or sell, when, to whom, and for what purposes;**
- **Consumers must be given the right to "opt out" -- the right to say "NO" to the sharing of their information; and**
- **Consumers' medical information simply should not be sold or shared among affiliates in a financial conglomerate.**

EXPAND THE CONSUMER'S RIGHT-TO-KNOW

In 1998, consumers received nearly 4 billion credit card solicitations. With credit card companies competing to get attention, new terms and conditions are being offered. While lower rates and new features are providing consumer benefits, there are numerous new traps for the unwary. Consumers complain most frequently about misleading low "teaser rates" and unexpected interest rate hikes. In addition, card companies have lowered minimum payment requirements, leaving some consumers

unaware how little progress, if any, they are making on repaying their debt. The Clinton-Gore Administration would:

- **Require that any marketing of “teaser” rates for credit cards include equally prominent disclosure of the expiration date of the rate and the eventual annual percentage rate.**
- **Require clear and conspicuous notice of how long and how costly repayment would be if the consumer makes only the minimum payment.**

Consumers also are frustrated with ATM surcharges -- fees charged by the ATM provider in addition to what the bank charges per transaction. Consumers can vote with their feet, but once a transaction is begun few want to stop and go elsewhere. While many ATM networks require disclosure of the surcharge on both the face of the machine and the terminal screen, not all ATMs have the dual disclosure and the requirements are not legally enforceable. The Clinton-Gore Administration would:

- **Require clear and conspicuous disclosure of ATM surcharges on both the machine and the terminal screen.**

PREVENT FRAUD AND ABUSIVE PRACTICES

Once, stealing another’s identity required fraudulent documents, but today the use of another’s personal identification information (e.g., social security numbers and credit cards) can be sufficient to commit fraud. Last October, Congress passed and the President signed the Identity Theft and Assumption Deterrence Act. The Clinton-Gore Administration will:

- **Launch a vigorous enforcement, education, and prevention strategy to combat identity theft, led by the Treasury Department, with Justice other agencies.**

EXPAND ACCESS TO FINANCIAL SERVICES

Too many Americans cannot afford, or do not have access to, basic banking services. To expand access, the Clinton-Gore Administration will:

- **Provide basic electronic banking accounts for federal benefit recipients, providing them with a low-cost, yet safe and sound place to deposit and save money. Treasury would pay to establish low-fee accounts for federal benefit recipients.**

EDUCATE CONSUMERS AND IMPROVE FINANCIAL LITERACY

The daunting complexity of financial products and choices increases the importance of consumer financial education. President Clinton today **directed the National Economic Council to convene a high level interagency group to prepare a plan to raise financial literacy and expand the Administration’s commitment to consumer financial education.**

B. SPECIFIC PROPOSALS

This section provides a short summary of the entire package of proposals. (All items require legislation unless otherwise noted.)

1. Protecting financial privacy

- ***Expand notice and opt-out requirements to cover all credit information:*** *We would expand protection of consumers' credit records under the Fair Credit Reporting Act (FCRA), by requiring customer notice and opt-out choice before an organization can share transaction or experience information with a third party or an affiliate. (Currently, notice and opt-out is only required before sharing non-transaction information (e.g., credit report or application information).)*
- ***Prevent use of medical information for credit decisions or other purposes:*** *With the growing number of mergers between insurance and financial services firms, lenders and brokers potentially have access to private medical information. We would prohibit the sharing of medical information, such as that gathered from health or life insurance records, within financial services conglomerates (e.g., between banking and insurance affiliates).*
- **Monitor Bank Compliance with FCRA.** Currently, bank regulators may not examine for compliance, but must wait for a consumer complaint. We would provide regulators with broader authority to monitor compliance. (We supported the same last year.)

2. Expanding disclosure

a. Credit Cards

Prevent Misleading Credit Card Marketing of "Teaser" Rates. One of the most frequent consumer complaints is that they had not understood marketing materials on credit card interest rates and were shocked when rates skyrocketed. We would require that any marketing of "teaser" rates for credit cards include equally prominent disclosure of the expiration date of the rate and the eventual APR rate. ~~Such disclosures~~ Similar considerations are already required reflected in disclosures for closed-end credit. **closed end credit requires APR disclosure of blended rate, not both**

Require Credit Card Minimum Payment Disclosures. In recent years, credit cards have lowered minimum payments, leaving some consumers unaware how little progress they are making on repaying their debt. As proposed in last year's

bankruptcy legislation, we would require clear and conspicuous notice of how long and how costly repayment would be if the consumer makes only the minimum payment.

Require “Surgeon General’s Warning” With Credit Cards. Few lenders now make an individual assessment of whether a debtor has the capacity to repay (current income versus current expenses) before extending new lines of credit, relying instead upon statistical models that predict likelihood of repayment from credit scores and other characteristics. As proposed in last year’s bankruptcy legislation, we would require that lenders notify customers that the consumers need to assess whether they can afford to repay additional credit and provide a simple worksheet to assist consumers in determining how much debt they can afford to repay.

b. Banks

Provide Enforcement “Teeth” for Rules on Bank Sale of Non-Deposit Products. Under current bank regulator guidelines, banks that sell non-deposit products (e.g., insurance) must disclose that those products are not federally insured. However, regulators have limited authority to enforce these guidelines. We would statutorily mandate disclosure and give regulators the authority to take enforcement actions against violators.

c. Rent-to-Own Companies

Disclosures and Other Requirements for Rent-to-Own Products. The attraction of obtaining furniture, appliances, and other products with little down has led to the rapid growth of rent-to-own firms; but some consumers do not realize that under these arrangements they can pay many times the value of a product. The FTC is near completion of a study of the rent-to-own industry. We would support their findings, including, at a minimum, requiring basic disclosures of whether a product is new or used and what the product’s total cost would be under the contract. In addition, we will work with states to ensure that any federal rules do not interfere with state consumer protection efforts.

d. ATMs

Mandate ATM Surcharge Disclosures. *Many consumers will shop to avoid ATM surcharges or pay less. Posted disclosure of surcharge fees on the machine allows consumers to make a decision before the transaction begins, but current law only requires that a disclosure be posted either on the machine or the screen during the transaction. While most networks now require members to post fee notices in both places, we would require this of all ATM owners making it legally enforceable.*

e. **Mortgages**

Expand Disclosures for High LTV Mortgages. Increasingly, consumers with high credit card debts are being offered second mortgages to consolidate their debts, extend the time for repayment, and reduce the interest rate. These mortgages can result in debt levels of more than 125% of the home's value. Consumers may not understand the consequences of these refinances, especially that the failure to repay these consumer debts could lead to ~~losing~~losing their home; and recent studies show that many such homeowners promptly incur new consumer credit debts. We would require that the lender on high loan-to-value second mortgages disclose that: (1) interest payments may not be deductible; (2) the consumer may be unable to resell the house unless they can repay the entire loan amount; and (3) default will result in foreclosure.

Improve and Streamline Mortgage Disclosures under Truth-in-Lending Act (TILA) and the Real Estate Settlement Procedures Act (RESPA). In July 1998, the Board of Governors of the Federal Reserve (Board) and the Department of Housing and Urban Development (HUD) released a Congressionally-mandated study of how best to streamline the statutory disclosure requirements for mortgage loans and settlement services, with the goal of simplifying and improving the quality of information provided to consumers to enhance their ability to shop and increase competition. The report calls for a series of statutory reforms to RESPA and TILA to make the information provided to consumers more reliable, more timely, and more helpful in comparison shopping for all the services required to finance a home. We would adopt the HUD-Board recommendations.

- **Ban Coercive Sales of Insurance Products.** *Mortgage lenders increasingly offer "credit life" insurance designed to ensure repayment of the mortgage in the event of the borrower's death or injury. The economic value to the consumer of these products is dubious. Moreover, there are widespread reports of coercive sales, i.e., lenders implying that a loan decision will be made or made more quickly if the insurance is acquired. Required disclosures appear to be ineffective at deterring such fraud. The HUD-Board report recommended prohibiting the advance collection of lump-sum insurance premiums, so that consumers may pay premiums periodically and can terminate the insurance at any time, and so loan termination automatically cancels both coverage and liability for insurance payments. In addition, we would ban solicitation of credit life insurance during the pendency of a credit application.*

3. Combat fraud against consumers

Fully Implement FTC-HELP and Consumer Sentinel. The Year 2000 will be the first year of operation for FTC's toll-free consumer hotline, part of the Commission's Consumer Response Center. The hotline will give consumers fast and easy access to information they need to protect themselves -- from tips about credit and debt collection to advice on how to avoid becoming a victim of fraud. Complaints to the hotline become part of the Consumer Sentinel, the FTC's fraud database, which is shared only with other law enforcers in the U.S. and Canada. By 2000, the Consumer Sentinel database is expected to be a primary tool in the fight against consumer fraud. (Included in FY00 budget)

"Identity Theft" Enforcement Initiative. Last year, Congress enacted new laws barring the use of another's identifying information. The Treasury Department, in coordination with the Justice Department and regulatory agencies, will undertake a vigorous enforcement and prevention strategy to combat identity theft. ***[Need additional details from Treasury enforcement.]*** (Does not require legislation.)

Ban "Pretext Calling." Widespread reports of private investigators and data brokers tricking financial institutions into providing confidential customer information led Chairman Leach to introduce legislation to end the practice. We support the Senate version of the Leach bill, as we did in the 105th Congress. **[FYI: We strongly prefer the version marked as marked up by the House Commerce Committee as opposed to the House and Senate Banking Committee versions, the latter require us to meet a high standard of proof including intent, which means we would not likely use the new law at all because the FTC Act unfair and deceptive trade practice authority does not impose such high standards.]**

Limit Consumer Liability for Non-PIN Protected Debit Cards. "Off-line debit cards" differ from on-line debit cards (a.k.a. ATM cards) because a customer authenticates the transaction by signing a paper slip (as with a credit card purchase) rather than entering a PIN. This creates a greater risk of unauthorized transactions through forged signatures. Card issuers have been encouraging consumers to use them instead of checks and replacing existing ATMs with cards with off-line features. Yet these debit cards only provide the lesser protections of other debit cards although they operate more like credit cards. We would limit consumer liability as it is currently limited for credit cards.

- **Prohibit unsolicited mailing of loan checks.** Loan checks are credit products for which the consumer need only sign and cash or deposit the check to obtain the loan. While generally offered to middle and upper income persons, the consumer is at risk for fraudulent endorsement of the check. For the same

reasons that Federal law prohibits unsolicited mailing of credit cards -- protecting consumers from the hassle of contesting liability for stolen card purchases -- we would prohibit unsolicited mailing of loan checks.

4. Expand access to financial services

Provide Low-Cost Banking Services to All Americans. We would expand the availability of low-cost, electronic banking accounts (ETAs), so that all Americans can have a low-cost, yet safe and sound account in which to deposit and save their money. The Treasury would pay for account establishment for Federal benefit recipients and fees to consumers would be limited. (The Treasury Department issued a proposed rule on January 7. Final due soon.)

Provide Individual Development Accounts (IDAs) To Make It Easier for Low-Income Families to Save. IDAs allow low-income households to save not just for retirement but also for education, emergencies, ~~homeownership~~home ownership, or business investment. Individual contributions can be matched to incent more savings. (The FY00 budget doubles funding for IDAs.)

5. Improve consumer financial education

- **Launch a Campaign to Promote Education on Credit, Savings, and Investment.** *The President could direct the NEC to convene a high level interagency group to present him with a plan to raise financial literacy levels and to coordinate and expand the Administration's commitment to consumer financial education. . (Does not require legislation.)*

Create a Consumer Clearinghouse on Credit, Savings, and Investment. The Treasury will establish an easy-to-use government clearinghouse of resources for financial planning by building on existing agency web sites, to help consumers and interested groups locate financial education and planning resources. (Does not require legislation.) TENTATIVE

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:24-MAR-1999 15:37:45.00

SUBJECT: President Clinton Nominates J. Rich Leonard, Marsha J. Pechman, Carlos Murguia,

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

READ:UNKNOWN

TEXT:

Your brother??? If so, congratulations.

----- Forwarded by Elena Kagan/OPD/EOP on 03/24/99 03:39

PM -----

Jason H. Schechter

03/24/99 03:30:48 PM

Record Type: Record

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

cc:

Subject: President Clinton Nominates J. Rich Leonard, Marsha J. Pechman, Carlos Murguia, and William Haskell Alsup to the Federal Bench

THE WHITE HOUSE

Office of the Press Secretary

For Immediate

Release

March 24, 1999

PRESIDENT CLINTON NOMINATES J. RICH LEONARD, MARSHA J. PECHMAN, CARLOS MURGUIA, AND WILLIAM HASKELL ALSUP TO THE FEDERAL BENCH

The President today nominated J. Rich Leonard to the U.S. District Court for the Eastern District of North Carolina, Marsha J. Pechman to the U.S. District Court for the Western District of Washington, Carlos Murguia to the U.S. District Court for the District of Kansas, and William Haskell Alsup to the U.S. District Court for the Northern District of California.

Judge J. Rich Leonard, of Raleigh, North Carolina, has been a Judge on the United States Bankruptcy Court for the Eastern District of North Carolina since 1992. Prior to this appointment, he was the Clerk of Court from 1979 to 1992 and a U.S. Magistrate Judge from 1981 to 1992 for the U.S. District Court for the Eastern District of North Carolina. In addition, he has served as an Adjunct Professor at the University of North Carolina School of Law in 1995 and at North Carolina Central University School of Law from 1985 to 1986 and 1995 to 1997. Judge Leonard received a B.A. in 1971 and a M. Ed. in 1973 from the University of North Carolina at Chapel Hill, and a J.D. in 1976 from Yale Law School. Following law school, he clerked for the Honorable F.T. Dupree, Jr. of the Eastern District of North Carolina from 1976 to 1978 and was an associate with the firm of Sanford, Adams, McCullough & Beard from 1978 to 1979.

Judge Marsha J. Pechman, of Seattle, Washington, has been a judge on the King County Superior Court since 1988. Prior to this appointment, she was an associate and partner with the firm of Levinson, Friedman,

Vhugen, Duggan, Bland & Horowitz from 1981 to 1988. Judge Pechman previously held several academic appointments, including Clinical Professor and Director of the Law Practice Clinic with the University of Puget Sound School of Law from 1986 to 1987, Instructor and Staff Attorney with the University of Washington School of Law from 1979 to 1981, and Adjunct Professor at the University of Washington School of Law from 1983 to 1987. From 1976 to 1979, she served with the King County Prosecutor's Office as a Deputy Prosecutor. Judge Pechman received her B.A. in 1973 from Cornell University and her J.D. in 1976 from Boston University.

Judge Carlos Murguia, of Kansas City, Kansas, has served as a judge on the Wyandotte County District Court since 1990. He previously served as a full-time Hearing Officer in 1990, a part-time Hearing Officer and judge pro tem from 1984 to 1990, and a part-time Small Claims Court Judge from 1984 to 1990 for the Wyandotte County District Court. In addition, Judge Murguia coordinated the Immigration Amnesty Program with El Centro, Inc. from 1985 to 1990,

-more-

and was an associate with Zeigler Legal Services from 1982 to 1985. Judge Murguia received his B.S. in 1979 and his J.D. in 1982 from the University of Kansas.

Mr. William Haskell Alsup, of Oakland, California, has practiced with the firm of Morrison & Foerster, L.L.P. as an associate and a partner from 1973 to 1978 and from 1980 to the present. He has also served as Special Counsel to the Antitrust Division of the U.S. Department of Justice from 1998 to the present; as an Assistant to the Solicitor General of the United States from 1978 to 1980; and as an attorney with the firm of Pyles & Tucker from 1972 to 1973. Mr. Alsup received his B.S. in 1967 from Mississippi State University and his J.D. in 1971 from Harvard Law School. Following law school, he clerked for the Honorable William O. Douglas of the U.S. Supreme Court.

30-30-30

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:25-MAR-1999 10:42:52.00

SUBJECT: Re: Meetings on police

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

TEXT:

Ben -- we would never have a meeting without you. Also, I think Bruce is going to be calling you this morning on this subject.

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME:25-MAR-1999 15:38:49.00

SUBJECT: RECEIVED: Radio Address Meeting Time Change

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

TEXT:
RETURN RECEIPT

Your Document:
Radio Address Meeting Time Change
was successfully received by:
CN=Elena Kagan/OU=OPD/O=EOP
at:
03/25/99 03:22:44 PM

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:25-MAR-1999 13:04:52.00

SUBJECT: Long Term Scheduling Meeting

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

TEXT:

please schedule

----- Forwarded by Elena Kagan/OPD/EOP on 03/17/99 02:35
PM -----

Karin Kullman
03/17/99 02:11:50 PM
Record Type: Record

To: Elena Kagan/OPD/EOP
CC:
Subject: Long Term Scheduling Meeting

FYI -- In preparation for tomorrow's 5pm long term planning meeting, I am planning to meet with Bruce around 2pm tomorrow to go over the running list of event ideas I have from the staff.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-MAR-1999 09:44:04.00

SUBJECT: Talking Points for Data Collection

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

READ:UNKNOWN

TEXT:

----- Forwarded by Elena Kagan/OPD/EOP on 03/26/99 09:46 AM -----

Thomas L. Freedman
03/24/99 12:04:53 PM
Record Type: Record

To: Elena Kagan/OPD/EOP
cc: Mary L. Smith/OPD/EOP
Subject: Talking Points for Data Collection

Here's what I'd say trying to convince advocates this is a worthy data collection provision.

1. Update. I wanted to get back to you on where we were on putting together a strong data collection piece for Daschle's bill. We've been talking a lot to EEOC, Labor, to get something that works and could get passed. Actually, we've had these meetings with something like 17 agencies and offices, and we've had a lot of back and forth, but I think we've come up with something good.

2. Background. Last year, you remember Daschle's bill originally had a very general provision that allowed EEOC to collect data from employers of more than 100 employees. But there was a strong sense that as written the provision would draw really heavy fire from business groups; it would go nowhere.

3. Our goal. Our goal was to find some way to give EEOC the same ability to collect the data that Daschle had and mitigate the attacks -- and I think we've done that.

4. The proposal. The idea I wanted to bounce off you does two things: First, it tells EEOC to survey what data is available to the federal government, what do we have now? And it says EEOC should identify the gaps in our data collection for the purpose of better enforcement. And it says EEOC should consult other agencies when it does this.

5. Second, it says EEOC should take that evaluation and run a process and come up with a proposed rule for collecting the data necessary to enforce the laws under its jurisdiction. To fill the gaps. The way we neutralized the business concerns is that we just explicitly identify factors that EEOC consider anyway in making its rule, and say EEOC will consider them. So we say that in figuring out the best way to enforce the law, EEOC will consider the burden on business, and will consider what is the best vehicle for collecting the data, and how it will target businesses information to be most useful to EEOC and OFCCP.

5. But at the end of the day, it is EEOC writing the rule to collect data

for enforcement that is useful to EEOC.

6. EEOC/ Labor Support. We've talked to Ida Castro and Ellen Vargyas at EEOC who think this is a good step forward, and we've talked to Shirley Wilcher at OFCCP and she likes it as well.

7. Real Money and Deadlines. And we give an explicit up to \$2 million authorization to do it, and a deadline of under 18 months -- although Ida plans to try and do it in under a year.

8. Puts Administration on Record. Anyway, I think its a good package, it puts the Administration on the record for strong data collection by EEOC.

9. Neutralizes Republican Attack. And it gives us an answer when Republicans say it is a massive overhaul of the EEO-1 form, because we say no, we are going through a process to identify what we need -- maybe it will be EEO-1, maybe not, but let's put figuring out what we need and enforcing the law as the prime goal. This bill does that. And it is clear that EEOC will consider ways to minimize burdens on business.

10. Next Steps. If you are okay with it, we'll go back to Daschle and get the final language together, I'm sort of surprised that we've been able to get Treasury, Commerce, and OMB to go along with this, and I want to go ahead before we have minds changing. We're shooting to have something for the April 7th event.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:26-MAR-1999 18:38:10.00

SUBJECT: Why didn't we issue POTUS statement yesterday on signing of nursing home bill?

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

READ:UNKNOWN

TEXT:

we should have

----- Forwarded by Elena Kagan/OPD/EOP on 03/26/99 06:40
PM -----

Barry J. Toiv

03/26/99 11:49:00 AM

Record Type: Record

To: Phillip Caplan/WHO/EOP, Linda Ricci/OMB/EOP, Elena Kagan/OPD/EOP,
Christopher C. Jennings/OPD/EOP

cc:

Subject: Why didn't we issue POTUS statement yesterday on signing of
nursing home bill?

RECORD TYPE: PRESIDENTIAL (NOTES READ RECEIPT)

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

CREATION DATE/TIME:29-MAR-1999 10:47:15.00

SUBJECT: RECEIVED: Meeting

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

TEXT:
RETURN RECEIPT

Your Document:
Meeting
was successfully received by:
CN=Elena Kagan/OU=OPD/O=EOP
at:
03/29/99 10:43:25 AM

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:30-MAR-1999 19:19:59.00

SUBJECT: Re: wjw article

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

READ:UNKNOWN

TEXT:

didn't we get it toyou?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:30-MAR-1999 19:19:15.00

SUBJECT: LRM CJB31 - - EDUCATION Conference Document on HR800 Education Flexibility Partn

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

READ:UNKNOWN

TEXT:

please print

----- Forwarded by Elena Kagan/OPD/EOP on 03/30/99 07:21 PM -----

Constance J. Bowers

03/30/99 05:31:32 PM

Record Type: Record

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

cc:

Subject: LRM CJB31 - - EDUCATION Conference Document on HR800 Education Flexibility Partnership Act of 1999

Please direct your comments on the letter below to:

Melissa Benton by

4:00 p.m. Wednesday, March 31, 1999

Note: In the letter to the conferees, Secretary Riley states that he would recommend that the President disapprove HR 800 if it is enacted with unacceptable provisions that are in the Senate version.

click here for letter:

----- Forwarded by Constance J. Bowers/OMB/EOP on 03/30/99 05:26 PM -----

LRM ID: CJB31

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Tuesday, March 30, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

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

OMB CONTACT: Melissa N. Benton

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

SUBJECT: EDUCATION Conference Document on HR800 Education Flexibility Partnership Act of 1999

DEADLINE: 4:00 p.m. Wednesday, March 31, 1999

In accordance with OMB Circular A-19, OMB requests the views of your agency on the above subject before advising on its relationship to the program of the President. Please advise us if this item will affect

direct spending or receipts for purposes of the "Pay-As-You-Go" provisions of Title XIII of the Omnibus Budget Reconciliation Act of 1990.

COMMENTS: The attached letter from Secretary Riley is directed to the conferees on HR 800. In the letter, Sec. Riley states that he would recommend that the President disapprove the bill, if it is enacted with unacceptable provisions that are in the Senate-passed bill.

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Constance J. Bowers
 LRM ID: CJB31 SUBJECT: EDUCATION Conference Document on HR800 Education
 Flexibility Partnership Act of 1999
 RESPONSE TO
 LEGISLATIVE REFERRAL
 MEMORANDUM

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

You may also respond by:

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

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

TO: 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)

Dear Conferee:

I am writing to express my views on the House- and Senate-passed versions of H.R. 800, the Education Flexibility Partnership Act of 1999. As you know, "ED-Flex" authority permits States to waive certain statutory and regulatory requirements that apply to Federal education programs in a manner that complements State educational reform efforts and promotes achievement to high standards by all students. The Administration has long supported the concept of expanding ED-Flex authority beyond the 12 States allowed under current law, so long as that expansion does not undermine the purposes of those Federal programs and maintains a high degree of accountability for results. I am very pleased, therefore, that both bills would expand eligibility for ED-Flex status to all the States, as well as the District of Columbia and the Commonwealth of Puerto Rico, and couple that increased flexibility with a serious attention to maintaining accountability at the State and local level. The Senate bill, however, contains certain unacceptable provisions—unrelated to the expansion of ED-Flex authority—that, if enacted, would force me to recommend to the President that he disapprove the bill. I urge the Conferees to avoid such a disappointing and unnecessary result.

Turning to the ED-Flex provisions, I am very pleased that both bills have strong provisions for ensuring: public notice and comment, at the State and local level, on proposed waivers; State monitoring of local ED-Flex activities; and termination of waivers that have inadequate or harmful results. With respect to State eligibility for ED-Flex status, I prefer the more rigorous conditions in the House bill, as they apply to implementation of standards and assessments under Title I of the Elementary and Secondary Education Act of 1965 (ESEA). With respect to the State's application for ED-Flex status, I prefer the language in the Senate bill, which focuses on how ED-Flex authority will assist in implementing the State's comprehensive reform plan. I believe that complete State reporting of ED-Flex results is important and so support the provisions of the House bill relating to annual State reporting to the Secretary about the numbers and characteristics of waivers granted. Finally, I strongly support the provision of the House bill that would "sunset" this Act upon enactment of the upcoming reauthorization of the ESEA, because it is vitally important that continuation of ED-Flex authority be made consistent with changes to the underlying Federal programs to which it applies.

Last fall, Congress enacted and funded, on a bipartisan basis, a down payment on the President's plan to help the Nation's school districts reduce class sizes in the early elementary grades. Regrettably, the Senate bill contains amendments to the class size reduction authority that would undermine its impact by permitting local school districts to use funds received under that initiative not to reduce class size, but to meet obligations they are already required to meet under Part B of the Individuals with Disabilities Education Act. The value of reducing class size in the early elementary grades is supported by the research, and doing so is one of the most important things we can do to honor our national commitment to ensuring equal educational opportunity for all our children. Moreover, reducing class size in the early grades allows teachers to identify, and work more effectively with, students who have learning disabilities, thereby

potentially reducing those students' need for intensive special education services in the later grades. Rather than undermining the bipartisan effort to reduce class size--and setting parent against parent in school districts across the country--I would have preferred a bill that extended the President's initiative, so that school districts could plan to hire additional qualified teachers, provide additional classrooms, and take the other steps necessary to reduce class size. I certainly cannot support a bill that contains these Senate amendments and would recommend that the President disapprove it, if it were presented to him.

The Office of Management and Budget advises that there is no objection to the submission of this report and that from the standpoint of the Administration's program, enactment of H.R. 800 containing the Senate's amendments relating to the class size reduction initiative would not be in accord with the President's program. [Or do we want to say that enactment without the Senate amendments would be in accord with the President's program?]

Yours sincerely,

Richard W. Riley

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:31-MAR-1999 12:15:06.00

SUBJECT: Re: Dodd Amendment on Child Care

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

READ:UNKNOWN

TEXT:

sounds good. have laura set it up.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:31-MAR-1999 12:17:36.00

SUBJECT: Re: wjw article

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

READ:UNKNOWN

TEXT:

the wjw piece was written specifically for the book, which has a 1997 copyright.