

US-Mexico Commission - 11/03

- ① State Dept view
- ② Leg fix
- ③ Shdery

State Dept - until binational comm is ~~est~~ established concerned w/ precedent
DOJ concurs w/ State Dept. interpretation

Problems - reimbursement § 3.3

If agreement date w/ § 3.3, then = State would be OK.

State to
negot.

Drafts look good.

Pres. Zedillo visiting

Possible delimitation for mtg

State has been speaking w/ Mexico in prep. for the mtg.

→

Next steps

State will check on signed agreement would be acceptable.

If leg. signed - can comm. be appointed - State + Justice

If no leg. - comm. never used before.

If all else fails, E.O. - State + DOJ also objects.

Timing - End of year.

Ragor Mawr

- ~~but~~ will call Longman

16 U. 13.5 U
2 open fights

① Current - Dick Walling - HHS. - negotiation w/ Mexico going well.
law §303 - meet & bilateral comm will not address this
section. Next mtg in Dec ~~2001~~ but still takes time

What's ^{our} strategy

(a) Negotiations - registered agent → comm +

(b) Bingham Amendment - commission w/in 30 days - State still
no comm.
\$1.8 million only for planning FY99 FY2000 \$1.5 million = only plan +
amendment.
~~W.D.~~

(c) E.O. = same thing if necessary.

(d) State Dept. - underplayed - HHS should move forward.
State Dept. is concerned b/c precedent.

THE WHITE HOUSE

Office of the Press Secretary
(Antigua, Guatemala)

For Immediate Release

March 11, 1999

PRESIDENT CLINTON NAMES SIX MEMBERS
TO THE U.S. SECTION OF THE
UNITED STATES-MEXICO BORDER HEALTH COMMISSION

The President today announced his intent to appoint Amanda Aguirre, Jeffrey Brandon, Carlos Rene Gonzales, Rosemarie Marshall Johnson, Laurance N. Nickey, and Paul Villas as Members of the U.S. Section of the United States-Mexico Border Health Commission.

Ms. Amanda Aguirre, of Yuma, Arizona, is the Executive Director of the Western Arizona Area Health Education Center and the Director of College Services for South Yuma County at Arizona Western College. She has been active for more than fifteen years in addressing U.S.-Mexico Border health care issues and has coordinated and participated in several binational conferences. Her early professional training included a clinical internship at the Center for Developmental Disabilities, Children's Hospital in Los Angeles, California. Ms. Aguirre received her B.S. in chemistry from Universidad de Sonora, Hermosillo, Sonora, Mexico, and her M.A. in human nutrition from California State University-Los Angeles.

Dr. Jeffrey Brandon, of Las Cruces, New Mexico, is the Associate Dean of the College of Health and Social Services at New Mexico State University. Previously, he was Department Head for Health Science at the College and served on the faculty of the University of New Orleans-Lakefront. Dr. Brandon is highly involved in professional associations, university committees, and local public service. Dr. Brandon received his B.A., M.A., and Ph.D. from Southern Illinois University at Carbondale.

Dr. Carlos Rene Gonzales, of Patagonia, Arizona, is a rural family physician at the Patagonia Family Health Center and a clinical lecturer in the Department of Family and Community Medicine at the University of Arizona-Tucson College of Medicine. Dr. Gonzalez has served as a consultant and community medical director in various capacities in addition to continuing his work as a hands-on primary care provider. In 1997, he was named Arizona Family Physician of the Year. Dr. Gonzales received his B.A. from Carleton College and his M.D. from the University of Arizona-Tucson.

Dr. Rosemarie Marshall Johnson, of San Diego, California, is the Vice Speaker of the House of the California Medical Association and an Associate Clinical Professor of Anesthesiology at the School of Medicine at the University of California at San Diego. She has taught at Georgetown University, Walter Reed Army Hospital, Bethesda Naval Hospital, and the University of California. She has also held appointments at several California hospitals and served in numerous professional organizations, including as President of the San Diego County Medical Society and as of the California Society of Anesthesiologists. Dr. Johnson received her B.A. from Mount Holyoke College and her M.D. from Georgetown University.

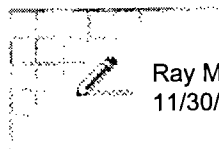
Dr. Laurance N. Nickey, of El Paso, Texas, is the former President of the Paso Del Norte Health Foundation. He is the former Director of

the El Paso City/County Health and Environmental District. Dr. Nickey was in private pediatric practice from 1960 to 1983. He was Vice Chairman of the Texas Board of Health for five years and was local campaign chairman for the March of Dimes. Dr. Nickey is a past president of several organizations including the Southwest Medical Association, the Texas Pediatric Society, and the U.S.-Mexico Border Health Association. He received the Nathan David Award for the American Medical Association presented in Washington, D.C. in 1995 for outstanding career service along the U.S.-Mexico Border. Dr. Nickey received his M.D. from Baylor University, College of Medicine.

Dr. Paul Villas, of Edinburg, Texas, is the Executive Director of the Texas-Mexico Border Health Office out of the University of Texas System. He is also an Associate Professor of Health and Kinesiology at the University of Texas at Texas-Pan American. He has taught at several universities, is involved in numerous professional associations, and is the author of dozens of professional publications. Dr. Villas received his B.A. from the College of Santa Fe, his M.S. from the University of Southern Mississippi, and his D.Ed. from the University of Tennessee.

The Commission was established by the United States-Mexico Border Health Commission Act (Public Law 103-400, which was authored by Senator Jeff Bingaman (D-NM)), and is charged with finding ways to improve the health status of Americans living along the border.

30-30-30



Ray Martinez
11/30/99 06:10:01 PM

Record Type: Record

To: Maria Echaveste/WHO/EOP@EOP, Mickey Ibarra/WHO/EOP@EOP
cc: Marjorie Tarmey/WHO/EOP@EOP, Leslie Bernstein/WHO/EOP@EOP
Subject: Border Health Commission

Maria:

I have now heard from the Office of Legal Counsel at DOJ regarding the Border Health Commission (BHC). Their opinion on the Bingaman amendment is that the President *may proceed* in appointing the members of the commission. However, according to DOJ, because a finalized agreement has not been completed between the U.S. and Mexico, once we appoint the commissioners, they will have no power to perform any commission functions, other than "preliminary planning" activities in preparation for the formation of the actual bi-national commission. I'm told that White House counsel concurs in the DOJ opinion, as does the State Dept.

I think this result is fine for the following reasons. Although the commissioner-designees will not be happy that they cannot function as a full commission, there is much planning work to be done which should keep the commissioners busy for the foreseeable future. In addition, the commissioner-designees have been told that even with the Bingaman amendment, they would not be able to act as a full commission until the Mexicans appoint their counterparts. Also, the formal negotiations between the U.S. and Mexico begin tomorrow afternoon, as OMB has now cleared the Circular 175 that was required before the negotiations could begin. Thus, it is only a matter of time before a final negotiated agreement is complete. Once that's done, the commission begins in earnest.

My recommendation is that we meet on this issue as soon as we can get some time on your calendar. Several things need to be accomplished, most importantly, the timing on the appointment of the commissioners now that we know we have the authority. I have suggested in the past that we consider announcing the appointment of our commissioners around the time of Zedillo's visit (the "intent to nominate" was issued by the White House this past May). In addition, I would strongly recommend that the BHC be one of the topics of discussion during the working meeting between the President and Zedillo. Finally, we should also consider publicly announcing an agreed framework for the formal negotiations of the BHC at the time of Zedillo's visit. We obviously need to have Arturo Valenzuela in this discussion, as well as others who may have different ideas on how to handle the above issues. Let me know if you'd like to proceed with a meeting on this. Thanks.

Ray.
6-2375

12/2/99

- Brennan would proceed ^{DOJ} ~~with~~ end 70k
- Can appoint Comm ^{U.S.} ← Mexican had no objection (Dale W. Hightower, NEU)
- Can engage in planning but not comm. business.
- Mexican

Binetral meeting by May 2001 but maybe earlier

- 1st part of Jan - Mexican appoint 13.
- State Dept. office of Mexican Affairs.

Timing - 12/13

- State Dept. recommend: this border should be on its agenda
- Shortly after the visit - Press release shortly after the visit - LHP office

Now appear appointment
 8 - 2nd round, 6 announced.
 4 State health officer - not appointed

DES

HTS will draft a paragraph for Bob's press release.

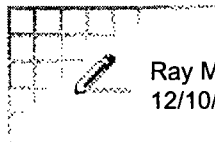
Complete list

Roll-out

- | | |
|----------------------|------------------|
| Maria-Santos | } Hall |
| Ryan - House members | |
| Others - | } Outside groups |
| NCLR | |
| COSMHS | } Gov |
| | |

State check - 1st or 2nd week in Jan 00

1/23 + 1/24 - Design meeting + signage by DES.



Ray Martinez
12/10/99 07:23:16 PM

Record Type: Record

To: Irene Bueno/OPD/EOP@EOP

cc:

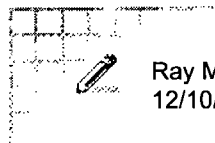
Subject: Draft of Border Health Commission Roll-out

Irene:

Here's a rough draft of a roll-out plan that I sent to Maria earlier today. Please let me if I'm missing anyone. Thanks.

Ray
6-2375

----- Forwarded by Ray Martinez/WHO/EOP on 12/10/99 07:21 PM -----



Ray Martinez
12/10/99 03:50:42 PM

Record Type: Record

To: Maria Echaveste/WHO/EOP@EOP, Marjorie Tarmey/WHO/EOP@EOP

cc:

Subject: Draft of Border Health Commission Roll-out



BHC ROLLOUT.d

Maria:

Attached is a draft of a roll-out plan for the BHC. If we stick to our original plan, we had targeted 12/14/99 for the press release announcing the appointment by the President of the 8 public members of the BHC. We can certainly play with that date if there is too much going on next week, although keep in mind that the "clock is ticking" on Bingaman's amendment to get these folks appointed w/in 30 days of President's signature on the budget bill (which occurred 11/29/99).

This roll-out is a rough draft; I still need to get more input from WH Leg. Affairs and Public Liaison. A draft press release has been given to Presidential Personnel, and I'm coordinating with Bob Nash and Sam Spencer to get a draft to you, certainly by Monday morning. Let me know if you see any glitches, or if we need to move the date around.

Thanks.

Ray.
6-2375

ROLL-OUT PLAN FOR ANNOUNCEMENT OF U.S./MEXICO
BORDER HEALTH COMMISSION
December 10, 1999

-DRAFT-

The following individuals and organizations should receive a phone call from either the White House or the Department of Health and Human Services prior to the announcement of the final appointment of the U.S. members of the Border Health Commission, currently planned for Tuesday, December 14, 1999:

SENATORS

Senator Jeff Bingaman

New Mexico

Staff Contact: Deborah Walker

Phone: (202) 224-5521

(MARIA ECHAVESTE)

Senator Kay Bailey Hutchison

Texas

Staff Contact: Quinn Dodd

Phone: (202) 224-5922

(MARIA ECHAVESTE)

Senator Pete Domenici

New Mexico

Staff Contact: Christine Morton

Phone: (202) 224-6621

(WHITE HOUSE LEG AFFAIRS OR HHS)

Senator Phil Gramm

Texas

Staff Contact: Don Dempsey

Phone: (202) 224-2934

(WHITE HOUSE LEG AFFAIRS OR HHS)

Senator Jon Kyl

Arizona

Staff Contact: Tom Alexander

Phone: (202) 224-4521

(WHITE HOUSE LEG AFFAIRS OR HHS)

Senator Barbara Boxer

California

Staff Contact: Kate O' Malley

Phone: (202) 224-3553
(WHITE HOUSE LEG AFFAIRS OR HHS)
Senator John McCain
Arizona
Staff Contact: Brian Roth
Phone: (202) 224-2235
(WHITE HOUSE LEG AFFAIRS OR HHS)

Senator Dianne Feinstein
California
Staff Contact: Glenda Booth
Phone: (202) 224-3841
(WHITE HOUSE LEG AFFAIRS OR HHS)

KEY HOUSE MEMBERS (including Congressional Hispanic Caucus)

Congresswoman Lucille Roybal-Allard
Chair, Congressional Hispanic Caucus
California
Phone: (202) 543-1774
(MARIA ECHAVESTE)

Congressman Sylvestre Reyes
El Paso
Staff Contact:
Phone:
(MARIA ECHAVESTE)

Congressman Ruben Hinojosa
Rio Grande Valley
Staff Contact: Rita Jaramillo
Phone:
(MARIA ECHAVESTE)

Congressman Solomon Ortiz
(Co-Chair, House Border Caucus)
Corpus Christi
Staff Contact:
Phone:
(MICKEY IBARRA)

Congressman Ed Pastor
Arizona
Staff Contact:

Phone:
(MICKEY IBARRA)

Congressman Henry Bonilla
(Co-Chair, House Border Caucus)
San Antonio
Staff Contact:
Phone:
(WHITE HOUSE LEG AFFAIRS OR HHS)

Congressman Joe Skeen
Las Cruces, NM
Staff Contact:
Phone:
(HHS)

Congressman Jim Kolbe
Arizona
Staff Contact:
Phone:
(HHS)

[Still to be added: Key California House Members]

GOVERNORS

Governor Gray Davis
California
Staff Contact:
Phone:
(MICKEY IBARRA)

Governor George Bush
Texas
Staff Contact:
Phone:
(HHS)

Governor Gary Johnson
New Mexico
Staff Contact:
Phone: (505) 827-3000
(HHS)

Governor Jane Dee Hull
Arizona
Staff Contact:
Phone: (602) 542-4331
(HHS)

MAYORS

Jim Baca
Albuquerque, New Mexico
Phone: (505) 768-3057

Carlos Ramirez
El Paso, Texas
Phone: (915) 541-4015

(MICKEY IBARRA)

(MICKEY IBARRA)

Elizabeth Flores
Laredo, Texas
Phone: (956) 791-7309
(MICKEY IBARRA)

Leo Montalvo
McAllen, Texas
Phone: (956) 972-7000
(WHITE HOUSE IGA)

Connie de la Garza
Harlingen, Texas
Phone: (956) 427-8700
(WHITE HOUSE IGA)

Blanca Vela
Brownsville, Texas
Phone: (956) 548-6000
(WHITE HOUSE IGA)

[Any other mayors for this list?]

OTHER KEY ELECTED OFFICIALS

Delores Briones
El Paso County Judge
Phone:
(WHITE HOUSE IGA)

[Any others to add to this list?]

COMMISSIONER-DESIGNEES

The following are the eight commissioner-designees that are being appointed. Each should receive a call from the White House Office of Presidential Personnel (8 total):

Amanda Aguirre
Yuma AZ

Laurance N. Nickey
El Paso, Texas

Jeffrey Brandon
Las Cruces, NM

Blair Sadler
San Diego, CA

Carlos Rene Gonzales
Padagonia, AZ

Catherine Torres
Las Cruces, NM

Rosemarie Marshall Johnson
San Diego, CA

Paul Villas
Edinburg, TX

The following are the four state health officers, which are mandated as commissioners by the

authorizing legislation of the U.S. / Mexico Border Health Commission. These four should be called by the Regional Directors of the U.S. Department of Health and Human Services (4 total):

Dr. William Reynolds Archer
Secretary, Texas Dept. of Health
Austin, Texas

James L. Schamadan
Acting Director, Arizona Dept. of Health
Phoenix, AZ

Diana M. Bonta
State Health Officer
Sacramento, CA

J. Alex Valdez
Secretary of New Mexico Dept. of Health
Santa Fe, NM

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HUTCHISON (AND BINGAMAN) AMENDMENT NO. 2278 (Senate - October 07, 1999)

[Page: S12248] [GPO's PDF](#)

Mr. SPECTER (for Mrs. **Hutchison** (for herself and Mr. **Bingaman**)) proposed an amendment to the bill, S.1650, supra; as follows:

At the appropriate place, insert the following:

Sec. . The United States-Mexico Border Health Commission Act (22 U.S.C. 290n *et seq.*) is amended--

(1) by striking section 2 and inserting the following:

'SEC. 2. APPOINTMENT OF MEMBERS OF BORDER HEALTH COMMISSION.

'Not later than 30 days after the date of enactment of this section, the President shall appoint the United States members of the United States-Mexico Border-Health Commission, and shall attempt to conclude an agreement with Mexico providing for the establishment of such Commission.'; and

(2) in section 3--

(A) in paragraph (1), by striking the semi-colon and inserting `; and';

(B) in paragraph (2)(B), by striking `; and' and inserting a period; and

(C) by striking paragraph (3).

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Bill 1 of 4

Final version (Enrolled Bill) as passed by both Houses. There are 3 other versions of this bill.

[References to this bill in the
Congressional Record](#)

[Link to the Bill Summary &
Status file.](#)

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bytes.](#)[\[Help\]](#)

United States-Mexico Border Health Commission Act (Enrolled Bill (Sent to President)) --S.1225--

S.1225

One Hundred Third Congress
of the
United States of America
AT THE SECOND SESSION

Begun and held at the City of Washington on Tuesday,
the twenty-fifth day of January, one thousand nine hundred and ninety-four
An Act

To authorize and encourage the President to conclude an agreement with Mexico to establish a United States-Mexico Border Health Commission.

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

SECTION 1. SHORT TITLE.

This Act may be cited as the 'United States-Mexico Border Health Commission Act'.

SEC. 2. ESTABLISHMENT OF BORDER HEALTH COMMISSION.

The President is authorized and encouraged to conclude an agreement with Mexico to establish a binational commission to be known as the United States-Mexico Border Health Commission.

SEC. 3. DUTIES.

It should be the duty of the Commission--

(1) to conduct a comprehensive needs assessment in the United States-Mexico Border Area for the purposes of identifying, evaluating, preventing, and resolving health problems and potential health problems that affect the general population of the area;

(2) to implement the actions recommended by the needs assessment through--

(A) assisting in the coordination and implementation of the efforts of public and private entities to prevent and resolve such health problems, and

(B) assisting in the coordination and implementation of efforts of public and private entities to educate such population, in a culturally competent manner, concerning such health problems; and

(3) to formulate recommendations to the Governments of the United States and Mexico concerning a fair and reasonable method by which the government of one country could reimburse a public or private entity in the other country for the cost of a health care service that the entity furnishes to a citizen of the first country who is unable, through insurance or otherwise, to pay for the service.

SEC. 4. OTHER AUTHORIZED FUNCTIONS.

In addition to the duties described in section 3, the Commission should be authorized to perform the following functions as the Commission determines to be appropriate--

(1) to conduct or support investigations, research, or studies designed to identify, study, and monitor, on an on-going basis, health problems that affect the general population in the United States-Mexico Border Area;

(2) to conduct or support a binational, public-private effort to establish a comprehensive and coordinated system, which uses advanced technologies to the maximum extent possible, for gathering health-related data and monitoring health problems in the United States-Mexico Border Area; and

(3) to provide financial, technical, or administrative assistance to public or private nonprofit entities who act to prevent or resolve such problems or who educate the population concerning such health problems.

SEC. 5. MEMBERSHIP.

(a) **NUMBER AND APPOINTMENT OF UNITED STATES SECTION-** The United States section of the Commission should be composed of 13 members. The section should consist of the following members:

(1) The Secretary of Health and Human Services or the Secretary's delegate.

(2) The commissioners of health or chief health officer from the States of Texas, New Mexico, Arizona, and California or such commissioners' delegates.

(3) Two individuals residing in United States-Mexico Border Area in each of the States of Texas, New Mexico, Arizona, and California who are nominated by the chief executive officer of the respective States and appointed by the President from among individuals who have demonstrated ties to community-based organizations and have demonstrated interest and expertise in health issues of the United States-Mexico Border Area.

(b) **COMMISSIONER-** The Commissioner of the United States section of the Commission should be the Secretary of Health and Human Services or such individual's delegate to the Commission. The Commissioner should be the leader of the section.

(c) **COMPENSATION-** Members of the United States section of the Commission who are not

employees of the United States or any State--

(1) shall each receive compensation at a rate of not to exceed the daily equivalent of the annual rate of basic pay payable for positions at GS-15 of the General Schedule under section 5332 of title 5, United States Code, for each day such member is engaged in the actual performance of the duties of the Commission; and

(2) shall be allowed travel expenses, including per diem in lieu of subsistence at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services of the Commission.

SEC. 6. REGIONAL OFFICES.

The Commission may designate or establish one border health office in each of the States of Texas, New Mexico, Arizona, and California. Such office should be located within the United States-Mexico Border Area, and should be coordinated with--

(1) State border health offices; and

(2) local nonprofit organizations designated by the State's chief executive officer and directly involved in border health issues.

If feasible to avoid duplicative efforts, the Commission offices should be located in existing State or local nonprofit offices. The Commission should provide adequate compensation for cooperative efforts and resources.

SEC. 7. REPORTS.

Not later than February 1 of each year that occurs more than 1 year after the date of the establishment of the Commission, the Commission should submit an annual report to both the United States Government and the Government of Mexico regarding all activities of the Commission during the preceding calendar year.

SEC. 8. DEFINITIONS.

As used in this Act:

(1) COMMISSION- The term 'Commission' means the United States-Mexico Border Health Commission.

(2) HEALTH PROBLEM- The term 'health problem' means a disease or medical ailment or an environmental condition that poses the risk of disease or medical ailment. The term includes diseases, ailments, or risks of disease or ailment caused by or related to environmental factors, control of animals and rabies, control of insect and rodent vectors, disposal of solid and hazardous waste, and control and monitoring of air quality.

(3) SECRETARY- The term 'Secretary' means the Secretary of Health and Human Services.

(4) UNITED STATES-MEXICO BORDER AREA- The term 'United States-Mexico Border Area' means the area located in the United States and Mexico within 100 kilometers of the border between the United States and Mexico.

Speaker of the House of Representatives.

Vice President of the United States and
President of the Senate.

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November 3, 1999

MEMORANDUM TO THE DEPUTY CHIEF OF STAFF

FROM: Ray Martinez

SUBJECT: Meeting Regarding the U.S./Mexico Border Health Commission

PURPOSE

To discuss current efforts by the Administration to appoint the U.S. members of the U.S./Mexico Border Health Commission.

BACKGROUND

On October 22, 1994, President Clinton signed into law legislation authorizing and encouraging the President to conclude an agreement with Mexico to establish a U.S./Mexico Border Health Commission (BHC). This legislation was authored by Senator Jeff Bingaman.

The legislation allows for the appointment of 13 commissioners to the BHC from the U.S. side. The U.S. Secretary of Health and Human Services is designated by the legislation as chair of the commission, and each of the state health officers from the four southwest border states – Texas, New Mexico, Arizona and California – are automatically designated as commissioners. The remaining eight commissioners are appointed through a collaborative process whereby the border governors identify prospective commissioners and the President has the authority to ratify or reject the commissioner-nominees.

Congress appropriated no money for the BHC in FY '96 or FY '97. However, for FY '98, Congress appropriated \$800,000 to HHS to begin planning for the creation of the BHC. (An additional \$1 million was appropriated in FY '99 for the BHC, and \$1.5 million for the BHC is currently proposed for FY 2000.) In March 1998, the White House requested nominations for commissioners from the governors of the border states; over the course of the next twelve months, both the White House and border governors successfully agreed on the commissioner-nominees.

On March 11, 1999, President Clinton announced his intent to appoint the commissioner-nominees. However, at about the same time, the White House Clerk's office, after consulting with both the State Department and the Department of Justice, determined that the law did not give the President authority to appoint the commissioner-nominees without an actual agreement being concluded and signed by the U.S. and Mexican governments.

The negotiations with the Mexicans on the agreement to establish the Border Health Commission have moved at a very slow pace. This is due primarily to the strong objections by the Mexicans to a provision in the U.S. legislation ("Section 303") which mandates the BHC to commission a study on healthcare costs provided to non-citizens by the U.S., and the possibility of reimbursements by the Mexicans to the U.S. government for such costs.

This delay in completing a negotiated agreement with the Mexicans is significant, because both the White House Clerk's office and the State Department have determined that the authorizing legislation for the BHC *requires* that an agreement be completed before we can formally appoint our BHC commissioners. It should be noted that Senator Jeff Bingaman strongly disagrees with this interpretation of the legislation. Senator Bingaman believes that the language merely "encourages" the President to enter into negotiations and not that the negotiations must be completed before we formally appoint our BHC commissioners.

In any event, Senators Bingaman and Kay Bailey Hutchison have attached an amendment to the Labor/HHS conference report that would allow for the appointment of the U.S. commissioners with or without the completed negotiations with the Mexicans, and would repeal Section 303 of the original legislation. Needless to say, the President is poised to veto this legislation. Thus, Senator Bingaman is looking for a signal from the White House that it will fight to preserve this amendment in the final version of the Labor/HHS appropriations bill.

Since last March, no movement has occurred in securing the actual appointment of these commissioner-nominees. As a result, the commissioner-nominees have expressed frustration and anger to both the White House and congressional members at the apparent lack of movement on their nominations. In addition, the focus of their anger is directed primarily at the White House, because they feel, as does Senator Bingaman, that the State Department's interpretation of the original legislation is flawed.

Early last week, John Podesta received a call from Senator Bingaman inquiring as to why the Administration was holding-up the appointment of the commissioners.

This meeting will allow all interested parties in the Administration to come together to brief you on the current state of the nominations, give you more complete information on why the process has moved so slow, and, with your guidance, devise a strategy to secure the appointment of the commissioners-nominees.

PARTICIPANTS

Ray Martinez, IGA
Irene Bueno, DPC
Mark Magana, Legislative Affairs
Irma Martinez, Cabinet Affairs
Sam Spencer, White House Personnel

Todd Bledsoe, IGA
Jackie Lain, IGA
Herb Tyson, State Department
Paul Story, State Department
Mary Beth Donohue, HHS
Steven Ottenstein, HHS

John Dawson, State Department

Irene Bueno

10/26/99:06:56:03 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP@EOP
cc: Devorah R. Adler/OPD/EOP@EOP, Ray Martinez/WHO/EOP@EOP
Subject: US-Mexico Border Health Commission

Bruce -

This is a clarification of the status of the US-Mexico Border Health Commission (BHC). I have spoken with HHS and Ray Martinez, who is now with WH/IGA but previously with HHS who both attended a meeting in Dallas with the prospective commissioner yesterday. Ray will continue to work on this and border issues for IGA. Ray has spoken with Mickey about this and he would like to set up a meeting with Maria to discuss this matter.

After the President expressed his intent to nominate the commissioners on March 11, 1999, the State Dept. opined to the WH Clerk that under the law that established the BHC, the President could not appoint the nominees nor could the funds be expended until the US reaches an agreement with the Mexican government and appoints its commissioners.

The State Department and HHS have been working with Mexico on an agreement but Mexico objects to a section of the law (sect. 303) that requires a discussion of possible reparations from Mexico for pollution that have caused health problems along the border.

HHS has been exploring various options including a possible EO but that would have only allowed the Commissioner to be appointments but not allow the fund to be expended in the absence of agreement with Mexico.

Senators Kay Bailey Hutchinson and Bingman's amendment to the Labor HHS bill would require the President to appoint the US Commissioners in 30 days and would repeal the section 303 that Mexico opposes. I understand that this provision is in the Labor HHS conference report but I have not verified.

During the meeting with the potential commissioners yesterday, Ray reported they are angry and frustrated that they have not been formally appointed and cannot do work on the commission.

There are a few options that we should pursue:

- meet with the State Dept. lawyers to explore if the law can be read in any other legally permissible way to allow the US commissioners to be appointed and funds expended in the absence of agreement with Mexico.
- work to find a legislative vehicle to pass the Hutchinson/Bingman amendment.
- make sure that this amendment is part of the Labor HHS bill.
- wait until Mexico appoints its commissioners but we don't know when they will do this occur.

Please advise as to how you would like me to proceed. Thanks.

SAMUEL O. SPENCER

10/27/99 09:05:43 PM

Record Type: Record

To: Irene Bueno/OPD/EOP@EOP

cc:

Subject: US-Mexico Border Health Commission

Irene, I thought you should see this.

----- Forwarded by Samuel O. Spencer/WHO/EOP on 10/27/99 09:05 PM -----

SAMUEL O. SPENCER

10/27/99 09:01:11 PM

Record Type: Record

To: Bob J. Nash/WHO/EOP@EOP

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

Subject: US-Mexico Border Health Commission

Bob-

Mary Beth Donahue, CoS to Secretary Shalala, and several WH officials may be calling you about the US-Mexico Border Health Commission. Until recently we believed the situation was on its way to being resolved. Senators Jeff Bingaman and Kay Bailey Hutchinson were sponsoring legislation to allow the President to appoint the US side of the Commission. However, I believe the legislation was attached to a bill that was vetoed and there may be other reasons the legislation has not passed. Many people are very upset about the fact the candidates we announced have still not been appointed to anything - including Senator Bingaman and other border state Members of Congress, the prospective commissioners, and health officials in the states. HHS Liaison Steven Ottenstein flew to Dallas last weekend to talk to the unappointed commissioners. Apparently the issue has been brought to the attention of Podesta and Echaveste by Senator Bingaman and they may ask you about it. I have written a description of the complicated series of events that have transpired which you should read. After consulting with HHS and WH Intergovernmental Affairs, I believe this situation has gotten out of hand and that we should return to our original idea for a solution -- establishing an executive order unilaterally establishing the US side of the Commission. The State Department and the Department of Justice objected to this because they argued that the President could not establish the US side of a Commission that did not exist. I now think that we should now probably try to sell them on this solution or proceed over their objections. Please let me know if you have questions.

Description of Events

In the Fall of 1998, at HHS's request, Presidential Personnel began soliciting the border states governors for recommendations for the the US-Mexico Border Health Commission as as required by law. By March of 1999, six of the eight candidates had cleared vetting and we went ahead and announced the President's intent to appoint them to the commission after receiving pressure from the HHS office overseeing the commission. Since then, the other two candidates have cleared.

As it turned out, the Commission had never been established and the Clerk's office was unable to appoint them. Legislation sponsored by Senator Bingaman and others which passed in 1994 authorized the President to enter negotiations with Mexico to establish the Commission, but these talks had never been initiated. Apparently, Mexico had been reluctant to establish the joint commission because it was mandated to study how health care costs provided to non-citizens could be reimbursed by the other country which Mexico apparently objects to. In addition, I believe the State Department did not support the establishment of the Commission because it already had a more general commission on US-Mexico issues.

Because the White House had already announced these appointments, we attempted to create an executive order which would have allowed the President to appoint the US side of the Commission unilaterally. The Justice Department and the State Department objected because they said the President could not appoint the US side of a Commission that did not exist yet. We then to create an executive order establishing the "President's Advisory Commission on US-Mexico Border Health," whose authority would have been de-linked from the authorizing statute. This would have given us at least something to appoint the announced candidates to. They could have begun working on the issues and HHS believed such a move would help move along negotiations with Mexico. The commission would have begun work and once the international commission was established, we would have appointed the same candidates to it. This plan fell through because Senator Bingaman's office and others strongly objected because they felt we were trying to find an excuse to not to move ahead with the international commission. These Congressional offices disagreed with State and DOJ that we could not appoint the members to their commission unilaterally. In addition, there was some question whether the money appropriated for the international commission could be used for the advisory commission.

Senators Bingaman and Hutchinson then decided to sponsor an amendment to their original bill which specifically authorizes the President to appoint the US side of the as yet to be established commission. In addition, HHS told us that Mexico had indicated a recent willingness to enter into negotiations.

However, the legislation was attached to a bill that will be vetoed. HHS now believes we should now return to our original solution -- an executive order establishing the US side unilaterally and that we should try to convince the State Department and DOJ of the necessity of this solution.

Message Copied To:

Maria L. Haley/WHO/EOP@EOP
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THE WHITE HOUSE

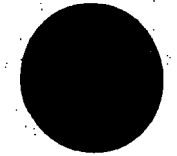
Chief of Staff

Bruce Reed
George Frumpton

Sen. Briannon
asked me about
why we stalled
on appointing a
U.S. - Mexico
Border Health Comm.

Are either of
you working this issue?

Polster



Chris J -
Does this
ring any
bells?

BR

Dick Walling - Head of Int'l Health - leaving without

intent to appointment

- State Dept. interpreted legislation to require - Clerk's office

- EOS - 2 types

- Advisory Council - Commissioners were angry ~~but~~ don't trust them.

- Comm

- Need legislative fix

- Hutchinson / Bingham - ~~an~~ amendment will help fix the appointments but not the ~~the~~

- State Dept. - David Randolph, attorney - telling people could happen

Call a mtg w/ State Dept.

- ~~also~~ Mexico - don't want this ~~possible reparations~~ ~~to~~ Mexico opposes possible reparations §303

§

Walling may move forward as long as we didn't acknowledge it.

- Brief next Pictor

- Meet w/ Sec.

OPTIONS:

1. Talk to Ex Clerk = no Commission must be formed first. = now
2. Legislation = weeks
3. EO = DOJ and State will object
4. Wait until US and Mexico have an agreement =months

Irene:Bueno

10/25/99 07:07:03 PM

Record Type: Record

To: Bruce N. Reed/OPD/EOP@EOP
cc: Cathy R. Mays/OPD/EOP@EOP, Devorah R. Adler/OPD/EOP@EOP
Subject: US - Mexico Border Health Commission

I have done some work on this US-Border Health Commission issue so I am responding preliminarily to your note to Chris in follow up to John Podesta's question on the US-Mexico Border Health Commission (BHC).

My understanding is that there are two reasons that the US appointments to the BHC have been held up. First, despite numerous discussions between the United States and Mexico over the past several years, no formal agreement had been reached in establishing the BHC. Second, HHS was initially advised by DOJ and the State Department that they could not appoint the US commissioners and spend funds to run this commission without a legislative fix or an Executive Order. However, upon further review, that position was modified and HHS is working expeditiously to get the commissioners appointed. In fact, the HHS design team is in Dallas today to establish this commission. I will speak to the HHS staff who attended to get an update on where they are in appointing these commissioners.

In the meantime, since these appointments have not yet been made, Senators Kay Bailey Hutchinson and Bingaman amended the Senate-passed FY 2000 Labor, HHS appropriations bill to require the President in 30 days to appoint the United States members of the BHC.

Below is some background on the BHC that HHS provided to me:

In October, 1994, Congress passed P.L. 103-400, which authorized and encouraged the President to conclude an agreement with Mexico to establish a United States-Mexico Border Health Commission (BHC). The primary goals of the Commission are to: (1) institutionalize a domestic focus on border health, which can transcend political changes, and (2) create an effective venue for binational discussions to address public health issues and problems which effect the U.S.-Mexico border population.

In FY 1999, Congress appropriated \$1 million to HHS to assist in the creation of the U.S. side of the Commission. On March 11, 1999, President Clinton announced his intent to appoint the members of the U.S. section of the Border Health Commission. The State Department sent a Diplomatic Note to Mexico on August 2, 1999 and Mexico responded on September 21, 1999. The United States Department of Health and Human Services is working with the Mexican Government to reach an agreement on these appointments.

In preparation of the BHC, a design team comprised of U.S. Federal and State representatives has done considerable preparatory work towards the Commission's formation. The design team's most recent meeting was held March 23-24, 1999 at the Crystal City Marriott, in which seven of the President's designees participated. The design team is meeting again in Dallas the week of October 25, 1999.

295-2380
Stuen

underlying agent
not on a president
to bilateral
agreement

- ① Need an agreement w/ Mexico to work together - w/ state +
8 Clu's to said NO - White House - write to wait.
clerk office
- ② created EO - OMB said no need to legislate
state + DOJ need agreements
~~another EO - FICA came - NO at anyone's hand~~
DOJ, state, legislation
- ③ New Bingham - back 30 days - it does fix
Labor HHS.
take 3.3% - As Republic section
automatically plus when so dy
- ④ Appropriated cannot be used for projects
DOJ + State - even if legislation passed. - B Why call.
- ⑤ Appoint ~~the~~ there
Common - were announced in March
- Clerk ~~White House~~ White House - said
NO - Tim Sanders - state meeting - ~~work~~ ~~holder~~
- Agreement should ~~not~~ exist - need an agreement - ~~not~~
- HHS - web page
- meeting
- Heckerling
B/S about & did
a role.

Blue labbin = SC. = Gk principle