

**NLWJC - Kagan**

**DPC - Box 035 - Folder 010**

**Legislation - Generally**

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THE WHITE HOUSE  
WASHINGTON

February 20, 1998

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**MEMORANDUM FOR THE PRESIDENT**

**FROM:** *em* **ERSKINE BOWLES AND LARRY STEIN**

**SUBJECT: ACHIEVING LEGISLATIVE AND POLICY GOALS FOR THE YEAR**

**Objectives:** To portion your time and our resources in order to secure maximum legislative and policy accomplishments for the year, while effectively communicating our commitment to the principles most powerfully supported by the American people.

**Background:** Since Congress is scheduled to be in session for no more than 90 legislative days this year, we will be engaging a huge number of issues in a very brief span of time. We will be seeking the right mix of legislative accomplishments and principled policy disputes designed to energize our party. At certain times, we will have to work with the Republican majority in areas where both sides can claim victory; and we will attempt to persuade Republicans and Democrats to support us on issues--primarily international matters like IMF, Iraq and Bosnia funding -- where we need policy successes despite an unfavorable political climate. At other points, we will use the national pulpit and our issues advantage with the public to pursue principles with hard, keen edges.

Because success requires a deft mix of communications and legislative skill, bipartisan accommodation and partisan aggressiveness, we need to establish our priorities and potentialities early. Since that delicate balancing act also must fit into a schedule truncated by the Republicans to suit their own partisan needs, we must portion your time with great care and target our resources with precision.

**The Communications Prerequisite:** Fundamental to success is sustaining our communications advantage in all of its forms. This means keeping your approval ratings high so as to maximize your ability to persuade the American people and thereby drive the issues agenda; and, conversely, using issues successes to sustain our high approval. Our scheduling and message delivery teams will therefore continue to:

- \* Take full possession of the positive economy which is the foundation of your favorables, capitalizing on regular release of economic indicators as well as events we can stage to draw attention to positive trends in income, unemployment, interest rates, investment etc.
- \* Build positive events out of the issues on which we have significant public advantage with special emphasis on education (class size), child care (tax credit, block grant and standards),

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Patients' Bill of Rights, and tobacco (focussing on getting juveniles off smoking).

\* Go repeatedly out to the country on forward-looking issues like Social Security, Medicare, our research agenda, climate change and tobacco to build more grass-roots support and sharpen your already strong image of commanding leadership.

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During the communications process, we should also clearly establish the Administration's standards and priorities so we can validate our position during the legislative process: e.g. tobacco is a kids' smoking issue that should also allow us to address other child-related problems like child care and children's health; class size and school construction are issues affecting more children, more critically than IRA withdrawal.

**Categorizing the Agenda:** Since time constraints will keep us from a full court press on all issues, we have to develop a categorization of the agenda to allow for the best apportionment of resources. The following is not intended to be an exhaustive catalogue, but it divides issues in a way that can prove useful. We will provide a fuller issues listing, using the same headings, after our next meeting. We see six issue types:

1. Clean wins (bills likely to pass without significant partisan strife):

- \* Nato Enlargement
- \* IRS Restructuring

2. Potential wins:

- \* NEXTEA
- \* America Reads
- \* Internet Taxation
- \* Bankruptcy

3. Not particularly popular or outright unpopular bills we must pass:

- \* Supplemental (Iraq, Bosnia, IMF, U.N. Arrearages)

4. Threshold issue that determines whether the year produces ambitious legislation or resolves into a normal stand-off election season:

\* Tobacco--upon which depends how much we can fund our initiatives: child care, school construction and opportunity zones, environmental technologies, discretionary investments in health research, etc. **and** the extent to which Republicans will be able to fund their marriage penalty and "stay-at-home moms" tax cuts. (Medicare is a presently unpredictable but significant element in this equation.)

5. Fights that may produce either accomplishments or election issues:

- \* Patient's Bill of Rights
- \* Medicare buy-in
- \* Minimum wage/pensions
- \* Tax cuts (even without a tobacco agreement, the Republicans will push tax cuts as their basic re-election platform, with emphasis on marriage penalty, stay-at-home moms, IRA withdrawal for private school tuition etc. We will counter with our "Save Social Security First" refrain if they try to use the surplus.)
- \* Juvenile justice
- \* Judges

*Need to win Clinton  
Change votes*

6. Defense--issues we must combat:

- \* Late-term abortion
- \* Flag-burning
- \* Affirmative action
- \* Scrap-the-code (an issue upon which we appear to be on defense but have a real opportunity to gain significant advantage.)
- \* School vouchers

In this context, it is vital that we not allow the tobacco to become, either publicly or in our own minds, the determinant of our success. It is both complex and divisive, drawing in an unwieldy number of factions. We have maybe a one in five chance of forcing a deal. But if no deal is struck, there is still much to be gained from the tobacco debate. Both as a political issue and as a chance for you to take an assertive leadership role in an area that will fix the press's attention, there is real opportunity here. An actual solution should not necessarily be our standard of success internally, though we must keep intensifying the public pressure for comprehensive legislation to keep open the chance for a major success. (We will outline our full tobacco strategy in a subsequent memo.)

**The Rhythm of Bipartisanship and Partisanship:** As a practical matter, the legislative year will boil down to three major events: the Supplemental and Budget Resolution; the by-play around tobacco; and an omnibus appropriations bill. Through the month of March and into April, we will need Republican help in passing an unpopular group of international funding programs. We must therefore start the next Congressional work-period (next week) in a bipartisan posture. The next phase, tobacco, has the Republicans at a distinct public disadvantage. Moreover, our Democratic caucuses are looking to us for wedge and definitional issues for the election year. As soon as the Supplemental is passed, we should take a partisan stance, with particular emphasis on kids' smoking and child care. We should also heighten the rhetoric on class size, Patients' Bill of Rights and Medicare buy-in--all three of which may turn out to be wedge issues.

Subsequent to this period, likely to last through the spring, our stance will be determined by the tobacco question: if we have constructively engaged, we will be in something like a budget summit as we were in 1997; if we have broken apart, we will be into a major fight on appropriated funding levels for education, health, research and the environment as we were in

1995 and 1996. Neither scenario is bad for us, and both impose significant pressure on the Republicans.

Moreover, our strategic decisions for the year should always be made with our strongest leverage point in view. The Republicans are frightened to death of repeating the government shut-down episode. They know that the caps constraining discretionary spending are tight and will make it very difficult for them to fund their own priorities and, at the same time, send you signable bills. We have a significant upper-hand in any end-game negotiations..

**Immediate Steps:** We must first mobilize all our resources and persuasiveness to get as much of our international funding agenda as we can on the supplemental. At the same time, we have to solidify our tobacco position, build pressure for a tobacco deal through kids-related public events, and send out quiet embassies to Republicans who may be receptive to a comprehensive tobacco solution.

We will expand and refine the strategy outlined above in subsequent memos.

THE WHITE HOUSE  
WASHINGTON

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FROM: <sup>EB</sup> ERSKINE BOWLES AND LARRY STEIN <sup>LIS</sup>

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legislation generally

THE WHITE HOUSE  
WASHINGTON

1997-11-26

November 26, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: JOHN HILLEY *John Hilley*

SUBJECT: LEGISLATIVE OUTLOOK FOR THE SECOND SESSION OF THE 105TH CONGRESS

This memorandum highlights significant legislative issues likely to be considered during the second session of the 105th Congress--those that were under consideration in the first session of the 105th Congress or might receive significant legislative attention prior to the 1998 elections.

1. Budget Issues

**Appropriations:** The 1999 appropriations bills will be constrained by the discretionary caps adopted in the Balanced Budget Agreement. The 1999 caps, which contains a "firewall" between defense and non-defense funds, provide for a slight increase over 1998 levels (an additional \$2.8 billion in budget authority for defense and an additional \$3 billion for nondefense).

A Bosnia supplemental bill is expected early next year. This will become the first appropriation vehicle and may be used to revisit 1998 appropriation issues and for other purposes.

**Budget Surplus:** Shortly after the balanced budget agreement was signed, some members of Congress turned their attention to the intended use of the budget surplus. For some of these proposals, "budget surplus" had been defined as the \$135 billion five year difference between the revenue projections at the time of the bipartisan budget agreement and CBO's latest projections. Others define "budget surplus" more traditionally, as the period in which revenues exceed outlays. Four major purposes for the surplus have been discussed: 1) federal debt reduction; no further legislative action would be required (Senator Moynihan); 2) tax relief (Representative Boehner, with 32 cosponsors including Majority Leader Arney); 3) additional spending on highways or other purposes (Senator Byrd, Senator Warner, and Representative Shuster); and 4) a combination of the above (Representative Neumann). This issue will be vigorously debated in the context of the 1999 budget resolution next year.

**Military Construction Line Item Veto Override:** The House passed (352-64) and the Senate adopted by unanimous consent a disapproval motion fully overturning your line item vetoes of 38 military construction projects. Upon return, Congress will likely take up your veto of the motion of disapproval unless a negotiated solution is achieved before then.

2. **Taxes**

**Tax Cuts:** While Republicans will be constrained by the budget, Speaker Gingrich has said that he would like the Congress to enact a tax cut every year. Some potential proposals include: repeal of the capital gains tax; increasing the exemption on the estate tax; and possible repeal of the marriage penalty tax.

**Tax Simplification and Reform:** The Republicans' strategy for IRS and taxes is expected to include dispensing with the income tax and substituting either a flat tax or some form of a national retail sales tax. House Majority Leader Arney and Representative Tauzin are currently promoting their individual tax code proposals. Arney favors the flat tax, while Archer and Tauzin are strong proponents of the national sales tax.

Minority Leader Gephardt has proposed a plan which is essentially a variant of the 1986 Tax Reform Act in which many exemptions and deductions would be eliminated and rates would be lowered. At this point, there is no announced agenda for Congressional consideration of these tax proposals.

**IRS Reform:** Passage of the House-passed and Administration-endorsed version of the IRS restructuring legislation has been slowed by Finance Chairman Roth. Roth has announced plans to hold additional hearings, suggesting he is unsatisfied with a number of the proposals, and promised to produce his own version of the bill sometime "early" next year. Senators Kerrey and Grassley have introduced legislation that falls somewhere between the House version and the Administration's original plan.

3. **Education**

**National Standards and Testing:** The FY98 Labor/HHS Appropriations bill provides the NAGB with authority over developing and administering national exams. While field testing will not proceed until FY99, the Department of Education has provided the Board with \$16 million in discretionary funds to begin the development of these exams and has proposed a 5 year, \$65 million contract for the future development and administration of national exams. The ability to go forward with pilot tests in 1999 is not restricted by the need for authorization. We anticipate challenges to our current approach from conservative Republicans as well as some Members of the Black and Hispanic Caucuses.

This NAGB reauthorization will provide an opportunity for Chairman Goodling to revisit the issue of the national test in his House Education and the Workforce Committee. The

makeup of the Committee is such that the test could have a difficult time making it through without significant limitations. Senate Committee Chairman Jeffords supports the test but he will most likely wait for Goodling before he proceeds.

**America Reads:** Shortly before adjournment, the House passed H.R. 2614, Chairman Goodling's literacy authorization bill. The Administration supported the legislation in the interest of moving a bill forward despite concerns about voucher language. Senators Jeffords and Kennedy have made a commitment to Secretary Riley to develop a bipartisan Senate bill next year.

**Charter Schools:** The House passed H.R. 2616, the Charter Schools Amendments Act authorizing \$100 million in FY98, nearly double the \$51 million provided in FY97. The measure would channel appropriations to states that provide charter schools a high degree of autonomy over their budgets; increase the number of charter schools; and conduct reviews to determine whether charter schools are meeting or exceeding academic requirements and goals. The bill awaits Senate action.

**School Vouchers:** The Coverdell/Archer K-12 IRA proposal which was defeated last year in the Senate may resurface in the second session. This proposal would allow taxpayers to make tax-free withdrawals from education IRAs to pay for elementary or secondary school expenses, and also increase the maximum annual IRA contribution from \$500 to \$2,500 per beneficiary. The withdrawals could be used to pay for tuition, fees, tutoring, special needs services, books, supplies, equipment, transportation and supplementary expenses required for the enrollment or attendance at a public, private religious, or private nonsectarian school, or for home schooling. A growing number of Senate Democrats support some version of this legislation.

**Higher Education Reauthorization:** Authorization for the Higher Education Act, which provides for federal student aid, among other things, expires in FY98. The Administration has been sending its legislative proposals to the Hill in sections with almost all items slated to arrive by the end of December. A few major items might be held back if they can be announced at the State of the Union Address.

#### 4. Environment

**Superfund:** Republicans continue to indicate that Superfund reform will be legislative priority next session. In the week prior to the recess Commerce Subcommittee Chair Mike Oxley (R-OH) introduced a bill with seven Democratic sponsors (mostly Blue Dogs) and stated his intentions to hold hearings early next year. Transportation Subcommittee Chair Sherwood Bohmert (R-NY) shares jurisdiction and has a bill which he intends to mark-up early next year. The Senate has been in ongoing bipartisan negotiations but those discussions broke down late in the year. There may be an effort to revive these discussions based on progress in the House. The Administration supports Superfund reform and has a set of principles which represent our position. The issue of polluter liability remains the key stumbling block.

**Nuclear Waste Policy:** The House approved (307-120) H.R. 1270, the Nuclear Waste Policy Act of 1997 during the first session. You will veto the measure because it would undermine the credibility of the Nation's nuclear waste disposal program by designating a specified site for an interim storage facility before the viability of the site as a permanent geological repository has been assessed. Additionally, the House passed version of the measure does not contain adequate budgetary offsets: if the bill were enacted, a sequester of mandatory spending would occur in each of FY99 through FY2001. The Senate passed the bill (65-34) with a sufficient number of votes to sustain your veto. The two houses are likely to go to conference in the second session.

**Climate Change:** If an agreement is reached in Kyoto in December, 1997, the treaty will need to be ratified in the Senate. If implementing legislation is sent to the Hill with the treaty, it could be 1999-2001 before consideration of ratification is possible. The FY98 Energy and Water Appropriations bill provides a \$35 million funding increase for the alternative energy programs of DOE that are efficient and reduce the emission of climate change gases. This increased funding is consistent with your climate change proposal and includes such programs as solar power and alternative fuel research.

**PM/Ozone:** Under the Small Business Regulatory Enforcement Act (SBREFA), the Congress will have the right to consider legislation overturning the rules well into 1998. In the House, Representatives Ron Klink and Fred Upton have introduced legislation. The Republican Leadership, however, is unlikely to bring the legislation up for a vote. House supporters of the Administration's position claim to have a veto-sustaining margin.

**American Heritage Rivers:** Representative Chenoweth (R-ID) introduced a bill which terminates further implementation of the American Heritage Rivers Initiative. The measure was cleared by the House Resources Committee and should be vetoed in the unlikely event it passes both Houses.

**Endangered Species Act Reauthorization:** The Administration has indicated support for the ESA reauthorization in testimony before the Environment and Public Works Committee. The bill codifies many of Secretary Babbitt's new policies in the management of endangered and threatened species, including exemption for small land owners, greater management flexibility for the DOI Secretary, procedures for delisting a species, a "no surprises" protection for the property owner using a Habitat Conservation Plan for threatened and endangered species, and liability protection for private land owners who voluntarily enter into protection agreements.

**Regulatory Reform:** Led by OMB, CEQ, and Legislative Affairs, the Administration has worked with Senators Glenn, Levin, and Thompson on their bipartisan draft legislation. Conservative Republicans have already complained that the draft does not adequately limit agency discretion in rulemaking or sufficiently streamline the rulemaking process. Groups on the left, principally environmental, argue that the draft bill hamstringing the Administration in its ability to protect health and safety. If the Administration's concerns

are addressed and we can support the measure, the bill should pass with broad bipartisan support.

**Takings Legislation:** H.R. 1534, sponsored by Congressman Gallegly, would greatly narrow both Federal ripeness and abstention doctrines with respect to takings law, thereby allowing real estate developers to seek relief in Federal court if state and local courts prove unfriendly. The measure was strongly opposed by the Administration which successfully worked to solidify Democrats and pro-environment Republicans against the bill. The resulting House floor vote of 248-178 represents a strong bipartisan veto-sustaining margin that significantly strengthens our prospects of defeating the measure or striking an acceptable compromise in the Senate.

## 5. Health

**Consumer Bill of Rights:** During the week of November 17, you endorsed the "consumer bill of rights and responsibilities" recommended by the Advisory Commission on Quality and Consumer Protections. There are already a number of consumer protection bills on the Hill that have received broad, bipartisan support. The bill that has received the most attention was introduced by Congressman Norwood (R-GA) and already has over 205 cosponsors in the House, including over 85 Republicans. Senator D'Amato has introduced a companion bill in the Senate. The Norwood/D'Amato bill differs from the Quality Commission in some areas, particularly those that focus on provider protections. Some of these provisions could notably increase the cost of health plans. For example, their bill requires a mandatory point-of-service option which would raise premiums for health plans that do not currently offer this option.

In addition, Congressman Dingell and Senator Kennedy have introduced companion bills, which emphasize consumer (more than provider) protections. Senator Jeffords has indicated his intent to introduce a bipartisan bill with Senator Kennedy, which is much more likely to reflect many of the Quality Commission's recommendations. Senator Lott is pressuring Jeffords not to introduce a bill on this issue; however, the Administration remains cautiously optimistic that progress will be made.

**Child Nutrition Act Reauthorization:** This Act will expire in 1998. USDA is drafting legislation providing the authority for school lunch, school breakfast, child and adult care, and other child nutrition programs. The legislation will provide local cooperators with increased resources to reach unserved populations; simplify program operations and education opportunities; and make significant reductions in the reporting and record-keeping burdens currently associated with child nutrition programs.

**Medicare Subvention:** Both the House and Senate Committees on Veterans Affairs passed a bill that would allow for a three year demonstration project in which certain veterans could choose to use their Medicare benefits for health care at VA hospitals, allowing Veterans Affairs to be reimbursed by Medicare. The bill was referred to the Senate Finance Committee and the House Ways and Means Committees respectively

because of jurisdictional oversight of Medicare. The bills have not been acted on in either Committee. Representative Thomas opposes the bill because he does not want the Medicare trust fund to pay for veterans health care. This bill may see action in the House early next spring, with the Senate to act thereafter.

**Food Safety Enforcement:** The Administration has submitted a bill which would provide the Secretary of Agriculture with the authority to issue mandatory recalls of adulterated food products, impose civil fines against companies that repeatedly violate food safety regulations, and require companies to notify the Department when they initiate a product recall. The Senate Agriculture Committee held a hearing this fall, but came to no resolution.

## 6. Crime

**Juvenile Justice Reform Legislation:** Senate Majority Leader Lott has already indicated that S. 10, juvenile justice reform legislation, will be one of the first bills on the Senate's agenda next session. The measure as reported by the Senate Judiciary Committee provides for a number of reforms in the prevention, enforcement and punishment of juvenile crime. The House has already passed a much narrower bill but it is expected that a House-Senate conference on the bill will produce a comprehensive measure. It is likely that many key Administration priorities including: increased funding for state and local courts and prosecutors; tougher penalties for those who use juveniles to commit drug and gun crimes; and better protections for witnesses and victims of juvenile crime will be included in the final legislation. More problematic will be winning meaningful juvenile crime prevention funding.

**Victims Rights Constitutional Amendment:** Senators Feinstein and Kyl will likely renew their push to amend the Constitution. The Department of Justice has been leading the negotiations on the Hill on behalf of the Administration. While the idea has popular appeal, the momentum has been tempered by Members' reservations about amending the Constitution. Chairman Hatch has been extremely cautious in his approach to this matter.

## 7. Government Reform

**Campaign Finance Reform Legislation:** Earlier this fall, the Senate leaders agreed to take up campaign finance reform legislation by early March. Under the agreement, Senators McCain and Feingold will be allowed to offer a bill or amendment for an up or down vote as an amendment to a Senate Republican campaign finance bill that will be drafted early next year. Following the vote on the McCain-Feingold substitute, further consideration of this and any other modification would potentially face a filibuster.

In the House, the Republican leadership has agreed to consider campaign finance reform legislation on the House floor in February or March, without a commitment on which bill might be brought to the floor. Congressman Shays is circulating a campaign finance discharge petition in the House which currently has almost 190 signatures as "an

insurance policy” to guarantee that the Republican leadership allows a House vote on a bipartisan, consensus reform bill.

Within the context of the campaign finance reform debate, Republicans can be expected to push two contentious provisions: 1) language requiring union members to affirmatively consent to having their dues used for political activities (the so-called Beck issue); and, 2) provisions that would require voters to prove their citizenship at the polls (also known as voter fraud prevention).

**White House Chief Financial Officer Legislation:** H.R. 1962, sponsored by Congressman Horn, would require the President to designate a Chief Financial Officer (CFO) in the Executive Office of the President. The bill as originally introduced was seriously flawed. It has since been successfully negotiated by the Administration to give the President full discretion in determining the appointment, the duties, and the placement of CFO within the Executive Office of the President. The Senate may consider the measure early in the next session.

## 8. Social Issues

**Haitian Refugee Relief Legislation:** It became clear during recent Congressional consideration of legislation to provide relief to certain Central American immigrants that comparable relief should be provided to similarly situated Haitian immigrants. Bipartisan legislation was introduced in the both the House and the Senate to provide amnesty for many of the Haitians who fled civil unrest in Haiti during the early 1990's. The Attorney General has agreed to refrain from deporting any Haitians covered by the proposed legislation until Congress has a chance to act on the measure.

**Tobacco Initiative:** Hearings were held in both the House and Senate during the fall. Any tobacco bill will have to make its way through a tangle of overlapping committee jurisdictions and agendas. At least six committees in the Senate and four in the House can lay claim to some piece of this legislation, and dozens of members in both parties have a longstanding interest in tobacco from the standpoint of reducing teen smoking or protecting tobacco farmers.

**Affirmative Action:** During the first session, legislation (H.R. 1909) sponsored by Congressman Canady eliminating all federal affirmative action programs was tabled in Committee as a result of the Administration's work with Committee Democrats and outside interest groups. It is almost certain that Republicans will push for its consideration again next year. The House Republican Leadership, however, will have to significantly narrow the scope of this legislation to appease Republican moderates if they want to move the bill forward. Such a move could cause conservative Republicans to abandon the effort altogether.

**Employment Non-Discrimination Act:** The Administration's strong support for this legislation has given its proponents on the Hill renewed momentum. It has also given the opposition on the right another issue to rally around. Senators Jeffords, Kennedy, and Lieberman remain firmly committed to trying to move this bill next session.

**School Prayer:** The House Judiciary Constitution Subcommittee has marked up a proposed constitutional amendment on religious freedom that would secure that right to pray "on public property, including schools." The full House Judiciary Committee is likely to consider and report out the measure next spring. The measure is strongly opposed by both the House Democratic leadership and many rank and file Democrats which should ensure that the measure will fail to receive the necessary approval of two-thirds of the House.

**Flag Burning:** Earlier this year the House overwhelmingly passed a proposed constitutional amendment that would allow Congress to prohibit the physical desecration of the United States flag. The measure is currently pending in the Senate where supporters admit they are short of the necessary two-thirds for passage. It is likely, however, that the Senate Republican leadership will want to schedule a vote prior to the election.

## 9. *Business Issues*

**Products Liability Reform Legislation:** The Administration has successfully negotiated with Senator Rockefeller a narrowly-crafted reform bill that is consistent with objections raised in your veto of the products liability reform legislation in the last Congress. Senator Rockefeller is currently discussing his draft legislation with Senator Gorton. While it is likely that Senator Gorton will attempt to gain additional concessions for his support, Senator Rockefeller has remained committed to his agreement with the Administration. Majority Leader Lott has signaled that this legislation will be one of his top priorities in the new session and it is likely that the House will await the outcome of the current Senate discussions.

**Energy Restructuring:** It is possible that 1998 may see movement on this issue. The Administration is still finalizing its position, which should influence the pace of activity on the Hill. Legislation has been introduced by a wide range of Members. The key questions will be the pace of deregulation, whether to mandate a deregulated environment by a date certain, how to recover the sunk cost of the high-cost power plants (i.e nuclear), and how to deal with the environmental effects of a deregulated industry.

**Financial Modernization:** While the House Banking and Commerce Committees passed different bills, compromise could not be reached to allow floor consideration. There is no bill under consideration in the Senate. Senator D'Amato has stated that he would like to take up a bill as early as February, but it is likely that legislation will remain stalled until well into the second session. Treasury is taking the lead on resolving two key issues: (1) reconciling the position of the banks and the insurance industry on bank sales of

insurance and (2) allowing operating subsidiaries of national banks to engage in the same range of services enjoyed by affiliates of bank holding companies.

**Encryption:** There are currently five different encryption bills pending in the House. To date, the Leadership has been unable to reach agreement with the respective Committee Chairman on which of the bills to send to the Rules Committee. Three of the measures favor the software industry; the two others support law enforcement and national security equities. In the Senate, the Administration supported McCain-Kerrey-Hollings bill has been marked up by the Senate Commerce Committee, but has not been reported out because McCain and Kerrey are worried about losing control of the bill to other Committees, principally Judiciary. McCain and Kerrey are tightening their control over the bill in an effort to resolve industry concerns over excessive regulation within the law enforcement provisions of the bill. Action on this bill can be expected shortly after Congress returns.

**CBI:** The Caribbean Basin Initiative (CBI) is a program to further the economic development and political stability of countries in the Caribbean and Central America. Defeated in the House last session, H.R. 2644, the United States-Caribbean Basin Trade Partnership Act would provide North American Free Trade Agreement (NAFTA) parity benefits for CBI countries in order to restore benefits eroded by NAFTA implementation, and would preserve and attract investment in the region. There is considerable disagreement on the textile, worker rights and environmental protection provisions of the proposal. There is also disagreement on how to proceed with the negotiations.

**Fast Track Trading Authority:** On Tuesday, November 4, the Senate voted (68--32) to invoke cloture motion on S. 1269, Fast Track Trading Authority legislation. The House took no action on the bill because certain Republicans attempted to link their vote on the measure to the resolution of the Mexico City issue in the FY98 Foreign Operations Appropriations bill. The Administration is expected to submit a narrower Fast Track proposal.

## 10. Transportation

**ISTEA:** In lieu of a multi-year bill, Congress sent to the President legislation that would enable spending for highway, transit, and highway safety programs through May 1, 1998. Senator Lott has said that it is his desire to begin floor consideration of S. 1173, the multi-year ISTEA Reauthorization early in the second session. However, pressure can be expected to increase for further delay until it is clear whether increased funding will be available through the budget process. The House Transportation and Infrastructure Committee advocates this approach. A number of controversial amendments are expected to be considered, including an effort to repeal DOT's Disadvantaged Business Enterprise program, to repeal Davis-Bacon, and to weaken environmental initiatives including the Congestion Mitigation and Environmental Quality program (CMAQ).

**Aviation Authorization:** The House passed H.R. 1271, the FAA Research, Engineering, and Development Authorization Act of 1997 during the first session. This legislation would authorize \$672 million through fiscal 2000 for research, engineering and development programs, a 4% increase from fiscal 1997 appropriations levels. The measure was reported out of the Senate Commerce, Science, and Transportation Committee and now awaits floor action. Congress is also expected to consider legislation in 1998 to extend the authorization for the Airport Improvement Program (AIP), which along with other Federal Aviation Administration (FAA) programs, is funded through aviation taxes that are credited to the Airport and Airway Trust Fund. After last year's battle on airline ticket taxes, the focus next year will be on the appropriate level of funding for AIP and language to implement the recommendations of the National Civil Aviation Review Commission (NCARC)--principally concerning the way the FAA is funded to include a combination of user fees, ticket taxes, and general funds, and to transfer the safety regulatory aspects of the FAA to a separate Performance Based Organization (PBO).

**11. Labor**

**FLSA:** The Administration expects that Republicans will once again try to develop legislation to exempt welfare recipients on workfare from the Fair Labor Standards Act and/or FICA taxes. This fall's efforts fell apart after Representative Clay Shaw was unable to fashion a proposal that satisfied both House Republicans and a bipartisan group of Governors, but the issue will come up again next year.

**TEAM Act:** The Teamwork for Employees and Management Act (TEAM) would amend the National Labor Relations Act to allow employers to create and influence employee organizations that deal with the employer on the traditional subjects of collective bargaining--wages, hours, and working conditions. You vetoed the TEAM Act in 1996, and no attempt was made to override the veto. The Senate Labor and Human Resources Committee reported the bill last April, but neither the House or Senate took action during the first session.

**12. Science and Technology**

**Civilian Space Authorization:** On April 24, the House passed H.R. 1275, the Civilian Space Authorization Act. This measure would authorize \$13.8 billion for fiscal 1998 and \$13.9 billion in fiscal 1999 for the National Aeronautics and Space Administration; \$376 million above the your budget request for fiscal 1998 and \$516 million above the budget request for fiscal 1999. This measure awaits Senate action.

**Commercial Space Act:** The Administration-supported legislation passed the House last session and is currently pending in the Senate Commerce Committee. The measure would require two market studies on the potential use of the International Space Station

by commercial entities and would allow the Secretary of Transportation the authority to grant licenses for commercial space uses.

### **13. Foreign Policy**

**Bosnia:** Members can be expected to introduce bills and offer amendments for troop withdrawal and possibly to pursue legislation regarding war criminals. The Administration will send Congress an Appropriations supplemental on Bosnia next spring. Administration efforts to gain congressional approval for this supplemental may attract both criticism and unfavorable amendments with regard to our Bosnia policy.

**NATO Enlargement:** The spectrum of concerns over NATO enlargement range from liberal Senators who believe that adding new members to the alliance will provoke Russian nationalism and weaken the democratic reform movement in that country to conservative Senators who fear that, in order to assuage Russia, NATO will give Moscow or its "surrogates" the ability to "veto" Alliance decisions. Senators appear to be skeptical over the Administration's cost estimates associated with enlargement, believing the U.S. will be expected to pay far more than what the Administration estimates.

**United Nations Arrears/IMF Funding for the New Arrangements to Borrow Initiative/Foreign Affairs Reorganization:** Intransigence on Mexico City family planning policy by certain Republican House members resulted in the Republican Leadership's decision not to include these measures as part of the appropriations bills moving at the end of the first session. We will try to move these critical pieces of legislation at the beginning of the year.

**Comprehensive Nuclear Test Ban Treaty:** On September 20, 1997, you transmitted the Comprehensive Nuclear Test Ban Treaty to the Senate for advice and consent. The Administration is working with Senator Domenici, whose support will be key to its ratification, to ensure that the DoE is adequately funded in their Stockpile Stewardship Program.

**National Missile Defense:** Senator Lott's bill (the measure mandates a deployment date of 2003 and contains ABM Treaty withdrawal provisions) has been reported out of the Senate Armed Services Committee. Senator Lugar has an alternative bill much closer to the Administration's position, yet no action has been taken as of yet.

**Start II:** This treaty will not be considered in the Senate until the Russian Duma ratifies START II, possibly in February 1998. START III negotiations are expected to begin late next year.

**CWC Implementation:** The Senate passed legislation in May 1997 that would implement the international treaty to ban the use and production of chemical weapons. The House held the Senate passed bill until Congress was ready to recess and then attached H.R. 2709, an Administration-opposed bill intended to isolate businesses and

countries, particularly Russia, suspected of transferring missiles or missile technology to Iran. The bill passed by voice vote in the House. Under this legislation, specific economic sanctions would be imposed on any entity that violates the ban. The bill would allow the President to waive this requirement on national security grounds. The Administration has issued a veto threat out on the measure. The Administration is negotiating at the staff level to try to separate the two measures. We expect the Senate to attempt to move the legislation early in the second session, probably by February 15.

**Religious Persecution:** The legislation, sponsored by Senator Specter and Representative Wolf, is currently in the House International Relations Committee. The bill is stalled, however, awaiting resolution of the concerns regarding automatic sanctions against countries committing religious persecution. Both chambers are expected to consider the measure next year.

13. Housing

**Public Housing:** The House passed H.R. 2, the Housing Opportunity and Responsibility Act of 1997, on May 14 by a vote of 293 to 132. S. 462, the Public Housing Reform and Responsibility Act of 1997, passed the Senate on September 26. Many of HUD's proposals were incorporated in the House and Senate bills. Major outstanding issues include public housing and Section 8 income targeting and fungibility, home rule flexible grant, Accreditation Board, rent provisions, community work requirements, and repeal of the 1937 Housing Act. While the two Housing Subcommittee chairmen (Senator Mack and Representative Lazio) had serious discussion of these issues in November, no progress was made.

cc: The Vice President  
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