

**NLWJC - KAGAN**

**EMAILS RECEIVED**

**ARMS - BOX 003 - FOLDER -010**

**[02/12/1997]**

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Michael Cohen ( CN=Michael Cohen/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:12-FEB-1997 08:20:26.00

SUBJECT: Re: Follow up to Georgia Trip

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

READ:UNKNOWN

TEXT:

It is so good to know that prompt, direct follow up by staff is recognized and rewarded. Let this be a lesson to you -- and don't forget to take care of our friends from Georgia in the conference!

----- Forwarded by Michael Cohen/OPD/EOP on 02/12/97  
08:20 AM -----

Sylvia M. Mathews

02/11/97 01:18:04 PM

Record Type: Record

To: Michael Cohen/OPD/EOP

cc:

Subject: Re: Follow up to Georgia Trip

Thanks for the followup!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Melinda D. Haskins ( CN=Melinda D. Haskins/OU=OMB/O=EOP [ OMB ] )

CREATION DATE/TIME:12-FEB-1997 09:12:07.00

SUBJECT: HHS Changes to the Golden Testimony

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

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

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

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

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

CC: Jeffrey A. Farkas ( CN=Jeffrey A. Farkas/OU=OMB/O=EOP @ EOP [ OMB ] )  
READ:UNKNOWN

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

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

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

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

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

CC: Cynthia M. Smith ( CN=Cynthia M. Smith/OU=OMB/O=EOP @ EOP [ OMB ] )  
READ:UNKNOWN

TEXT:

This morning, HHS will send us a redraft of the Olivia Golden testimony for tomorrow's House Human Resources Subcommittee hearing on the President's welfare and adoption proposals. This redraft should incorporate most of the edits made in the OMB passback. Note, however, that HHS has rewritten "Insert A" (the "welfare to work" insert) of the OMB passback. I will fax you a copy for comment as soon as I receive the new draft.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Lyn A. Hogan ( CN=Lyn A. Hogan/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:12-FEB-1997 09:43:08.00

SUBJECT: Adoption Event

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

FYI, Nicole and I are working with Patrick Steel (event coordinator) and Jordon Tamagni (speech writer) to put the event together. We're meeting this morning.



February \_\_, 1997

**MEMORANDUM FOR**     **ERSKINE BOWLES**

**FROM:**                 **GENE SPERLING**  
                              **BRUCE REED**

**SUBJECT:**               **“Choice” No-Fault Auto Insurance**

Both you and the President independently asked us to look into whether the “choice” no-fault auto insurance plan devised by Jeffrey O’Connell and Michael Horowitz, supported by Senator Dole in last year’s election, and now proposed for implementation in New Jersey by Governor Whitman might be something we would think a good idea as a matter of policy. Our preliminary response is that the Administration should not reject the plan out of hand -- it has positive features, including some that go beyond auto insurance premium reduction, that suggest a closer policy look is appropriate. During the 1970s, the Carter Administration supported national no-fault. There is still staff at Commerce and DOT who were part of that effort and have some expertise in the field. Before deciding to pursue any form of no-fault, we should bring these agencies into the process.

One preliminary question is what “support” for a “choice” no-fault plan might mean. It could be as little as using the bully pulpit to say this is a good idea and states should look into it. Or as much as supporting federal legislation to require states to adopt choice plans. A lesser alternative would be to provide federal incentives, such as increased highway safety or medicare funds, for states that adopt choice plans (presumably ones that meet certain statutory standards). Simply authorizing states to adopt such plans is a legally meaningless act, since they can do so already. These degrees of support implicate issues of federal preemption of state tort law as well as questions related purely to no-fault.

What is no-fault?

No-fault auto insurance is essentially first party coverage: if you’re injured in an auto accident, your carrier pays for your injuries<sup>1</sup> and your right to sue the other party (if there is one) is either non-existent (“pure” no-fault) or circumscribed. Almost all no-fault policies get their savings from the fact that only economic damages are covered -- no pain and suffering. No state has pure no fault. Depending on how you count, about 13 states and Puerto Rico have some form of no-fault. In New York and Michigan, which require extremely serious and objectively verifiable

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<sup>1</sup> Much auto property damage (to the auto) is covered by collision insurance. Some states have experimented with broader no-fault for property damage, but it was neither very effective nor very efficient. It is generally not an issue in the debate.

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injuries to get into court, it is reasonably effective in holding down costs and keeping cases out of court (although New York premiums are high for other reasons). In other states, which have weak verbal or dollar thresholds, or a right to choose to litigate after an accident, it has been less effective.

“Choice” no-fault is a system under which drivers would be given the option of choosing either a pure no-fault policy with fairly high policy limits (e.g., \$250,000) but no access to court or a more expensive policy which allowed court access but in which the policy-holder’s insurance company would pay, no matter who was at fault -- as is the case with uninsured motorist coverage today. Governor Whitman has proposed a variation of this system. There would be four policies: pure no-fault at the \$250,000 level (which would have a premium reduction of 20-25%); pure no-fault with an ability to collect for pain and suffering on a first party basis (which would result in a premium reduction of about 8%); no-fault but with access to court with a high verbal threshold (reduction unstated but should be some); and the traditional second-party liability system with unfettered access to court.

#### Problems and opportunities

The usual rationale for moving to no-fault is that it drives down insurance premiums, and the usual response is that it unfairly keeps injured parties from exercising their constitutional right to access to court. A collateral argument is that first party systems “punish” both good drivers and bad drivers who get into accidents, whereas the current system places the burden on the bad driver. This set of arguments does not tell the whole story.

#### Flaws in the Argument in Favor

Theoretically, no-fault should reduce automobile insurance premiums. A 1996 study by the Rand Institute for Civil Justice concluded that pure no-fault would reduce personal injury premiums by about 60%, and total premiums -- after taking into account the 50% of the typical premium that is for property coverage -- by about 30%. There are several reasons this has not been borne out in practice in the states that have adopted no-fault, and some additional reasons why certain states are likely to benefit less in any event.

- As noted above, no state has pure no-fault. Where there are weak verbal thresholds or dollar thresholds, not only do cases continue to get to court, but there is pressure to inflate medical expenses to exceed the threshold.
- While legal costs are a significant part of the premium dollar, other costs are also important in determining how fast premiums go up, such as the rate of increase in medical costs (leaving aside any impact of no-fault on these costs). Moreover, automobile insurance is a competitive business in most states and insurance companies regularly cycle through periods of declining and rising premiums.
- In states with a very high proportion of single-car accidents -- i.e., most rural states -- no-fault does not change the complexion of the payout system, and

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therefore should not have much effect on premiums, which are usually fairly low in the first place. Rand claims that the proportion of uninsured motorists doesn't matter much, but admits they don't really know.

- Even Rand, generally supportive of no-fault, admits that the most seriously injured individuals will probably get less compensation than under the current system. (The least seriously injured will cease being overcompensated.)

#### Additional benefits from no-fault

Even if there were no premium reduction, however, no-fault might have other benefits:

- As a medical matter, people who are injured who receive high quality medical and rehabilitative treatment quickly are more likely to recover fully. By keeping cases out of court, no-fault reduces the temptation to keep the plaintiff injured for the jury. Moreover, it provides the money to get the rehabilitation that's needed.
- This was important in the 1970s, but probably has gotten even more important since because:
  - Fewer people have medical insurance today; and
  - Seatbelts and airbags save lives, but those saved are often severely injured.
- High verbal threshold no-fault probably reduces fraud in the medical care system, and should reduce volume pressures on the civil justice system.

#### Flaws in the Opposition

The part of the argument in opposition that is stated in constitutional terms is basically unanswerable, except to note that in general not everyone has access to the civil justice system because of the cost and time involved in using the system. (The efforts of Republicans to get rid of contingency fees and institute loser pays would, of course, exacerbate this problem, and undoubtedly no-fault's opponents will lump any support on our part with these changes we oppose.) Portions of their argument relating to the lack of reduction in premiums in no-fault states or the fact that many rural states have much lower premiums than no-fault states ignore the different economics of the states and/or the problems related to low thresholds, but clearly need to be taken into account in determining the practical real-life impact of adopting no-fault.

#### Summary

No-fault generates significant public interest at the state and local level when auto insurance premiums are increasing rapidly (which appears not to be the case today), and may have real policy benefits. However, there are serious questions about the extent of the benefits and the appropriateness and efficacy of dealing with the issue at the federal level. We suggest bringing together an NEC interagency team, including Justice, Commerce and DOT, to further investigate existing information and develop options and recommendations.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-FEB-1997 11:41:09.00

SUBJECT: The Fine Art of Follow Up

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

READ:UNKNOWN

TO: Michael Cohen ( CN=Michael Cohen/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TEXT:

In recognition of his outstanding follow-up to the Georgia event, Mike has been named the official DPC representative to all future meetings with the Chief of Staff or his deputies. Mike, let us know if there's anything we need to do.

----- Forwarded by Bruce N. Reed/OPD/EOP on 02/12/97 11:38 AM -----

Elena Kagan  
02/12/97 11:11:08 AM  
Record Type: Record

To: Bruce N. Reed/OPD/EOP  
cc:  
Subject: Re: Follow up to Georgia Trip

thought you'd like this.  
----- Forwarded by Elena Kagan/OPD/EOP on 02/12/97 11:07 AM -----

Michael Cohen  
02/12/97 08:22:39 AM  
Record Type: Record

To: Elena Kagan/OPD/EOP  
cc:  
Subject: Re: Follow up to Georgia Trip

It is so good to know that prompt, direct follow up by staff is recognized and rewarded. Let this be a lesson to you -- and don't forget to take care of our friends from Georgia in the conference!  
----- Forwarded by Michael Cohen/OPD/EOP on 02/12/97 08:20 AM -----

Sylvia M. Mathews  
02/11/97 01:18:04 PM  
Record Type: Record

To: Michael Cohen/OPD/EOP  
cc:

Subject: Re: Follow up to Georgia Trip

Thanks for the followup!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Thomas C. Jensen ( CN=Thomas C. Jensen/OU=CEQ/O=EOP [ CEQ ] )

CREATION DATE/TIME:12-FEB-1997 11:44:36.00

SUBJECT: Utah education officials

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

READ:UNKNOWN

CC: Kathleen A. McGinty ( CN=Kathleen A. McGinty/OU=CEQ/O=EOP @ EOP [ CEQ ] )

READ:UNKNOWN

TEXT:

Elena,

A stray thread floated out of the rumor mill indicating that someone in your shop is meeting this week with Utah education officials who want to share their thoughts about the fiscal effects of the President's establishment of the new national monument in Utah.

If it would be helpful to you or yours, and not a rude, pushy, intrusive, unwelcome pain, I'd be prepared to sit in on the meeting or share ideas in advance.

In any event, be advised that these folks have previously asserted some remarkable things that don't square with anything we (or Interior) recognize as fact.

I hope you're well.

Tom



**NOT FOR FURTHER DISTRIBUTION**

MEMORANDUM FOR      Ken Apfel  
                              Andy Blocker  
                              Maria Echeveste  
  Kitty Higgins  
  John Hilley  
  Elena Kagan  
                              Steve Kelman  
  Sylvia Mathews  
  John Podesta  
  Frank Raines  
                              Doug Sosnick  
  David Strauss  
  Daniel Tarullo  
  Wendy White

FROM:                      Kathleen Wallman

SUBJECT:                 Draft Decision Memorandum Concerning Labor-Related Issues

COPY:                     Gene Sperling

DATE:                     February 12, 1997

I am sending you a draft of the decision memorandum that we discussed yesterday. I think that this draft should not be disseminated. In view of the time pressure, Gene has authorized me to share their preliminary draft prior to his review of it. I do not yet have two sections that Elena Kagan has graciously agreed to draft, but thought I should send around this portion to ensure that people agree that it properly reflects the nuances of yesterday's discussions. I will circulate another draft as soon as I am able that includes Elena's work.

I will consult with the Cabinet Departments, too. If there is anyone else in the White House who should see this draft whose name does not appear above, please alert me.

Please e-mail comments to me -- I am KM Wallman, not K Wallman -- or phone me at 65803. Thanks.

**Draft 2/12/97 11:30 a.m.**

MEMORANDUM FOR THE PRESIDENT

FROM: GENE B. SPERLING

SUBJECT: POSSIBLE POLICY ANNOUNCEMENTS RELATED TO LABOR ISSUES

DATE: FEBRUARY 12, 1997

On February 18, the Vice President will address the Executive Council of the AFL-CIO at its Winter Convention in Los Angeles. The NEC has met and deliberated the merits of several possible executive actions and possible announcements of legislative positions that are of interest to the AFL-CIO and that the Vice President could announce at the convention. Our recommendations are offered below.

In general, the AFL-CIO acknowledges the unlikelihood in the near term of significant legislative changes that would improve labor and employment laws. Indeed, they acknowledge that their legislative agenda will be largely defensive in the coming months and years. But, as exemplified here, they seek the Administration's expression of support, in both symbolic and concrete ways, for the principle that unions have been and still are valuable forces in the workplace.

**1. Possible amendments to federal procurement regulations.**

Federal law provides that the government should maintain a position of neutrality in labor disputes between unions and federal contractors. Nevertheless, under current federal contracting policies, contractors may be reimbursed for the costs of resisting unionization efforts and litigating against unfair labor practice charges, and remain eligible to receive new contracts.

To address what it perceives as the unfair "tilt" against unions that these federal contracting policies embody, the AFL-CIO has urged that the Administration direct the Federal Procurement Council, which operates under the auspices of the Office of Federal Procurement Programs within OMB, to initiate a notice and comment rulemaking to amend the Federal Acquisition Regulations (FAR) in three respects. We summarize the actions under consideration and the pros and cons of each. Since all three proposals go to the unions' neutrality principle, and since some members of your NEC believed it important to consider their impact together, we summarize the Cabinet Departments' recommendations at the end of this section rather than at the end of the discussion of each individual proposal.

- a. Amend the FAR to cease reimbursement to contractors for costs incurred to defend against unfair labor practice allegations that are in litigation.**

The Federal Acquisition Regulations (FAR) currently do not permit federal contractors to be reimbursed for the costs of defending criminal and certain civil proceedings brought by the government, as well as penalties resulting from those proceedings. In the case of civil proceedings, reimbursement is disallowed, however, only where a monetary penalty could have been imposed. Since the National Labor Relations Act does not include monetary penalties, the current regulations have often been construed to permit reimbursement of defense costs associated with unfair labor practice proceedings initiated by the General Counsel of the NLRB.

**Proposal:** Amend the FAR to make clear that any and all costs relating to defending unfair labor practice charges and complaints brought by the NLRB General Counsel are now allowable, both in evaluating bids for fixed price contracts as well as reimbursement for cost reimbursement contracts

**Pro:** Taxpayers' dollars should not be used to "tilt the playing field" in favor of employers against unions and employees. Eliminating this reimbursement will bring treatment of NLRB litigation costs in line with other kinds of litigation costs.

**Con:** No serious objections or downsides were identified, although a negative reaction from government contractors who have been permitted thus far to treat these costs as reimbursable is predictable.

**b. Amend the FAR to cease reimbursement for costs incurred to try to persuade employees not to unionize.**

The FAR currently provides that costs incurred by a contractor in maintaining satisfactory labor relations between the contractor and its employees, including costs of shop stewards, labor management committees, employee publications, and other related activities, are allowable costs. Under this provision, contractors have sought and been reimbursed for activities that undermine rather than promote satisfactory labor relations. On occasion, the costs that are being paid for by the taxpayers are for persistent anti-union organizing activity.

**Proposal:** Amend the FAR to provide that contractor costs incurred for activities related to influencing employees respecting unionization are specifically unallowable.

**Pro:** Taxpayers should not be subsidizing an employer's efforts to defeat union organizing activities and that these activities are now designed, and do not have the effect of, "maintaining satisfactory labor relations." A number of other statutes explicitly prohibit the use of government funds to promote, assist, or deter union organizing activities, such as the Job Training Partnership Act, the National Community Service Act, Head Start, and Medicare. Accordingly, there is precedent for this kind of provision and auditors having to concern themselves with these other statutes have had to determine whether an employer's labor

relations costs were or were not allowable.

**Con:** Disallowing costs for employee meetings by contractors would be characterized by the business community as pulling the rug out from labor-management cooperation. They will argue that it will not be possible in practice to separate legitimate activities from anti-union persuasion. This provision will require auditors to make decisions about what costs are allowable that they are not well equipped to make. In addition, this provision will likely be viewed by the contracting community as an unnecessary and burdensome requirement not otherwise imposed in the private sector.

c. **Amend the FAR to allow government contracting officers to consider, when deciding whether a contractor is a “responsible” contractor (a term of art under the existing FAR), the bidder’s record of labor and employment policies and practices.**

The FAR provides that a prospective government contractor must be found to be a “responsible contractor” before being awarded a government contract. “Responsibility” requires that a prospective contractor be capable of performing the contract, that it has a satisfactory performance record, and that it has satisfactory “integrity and business ethics”.

Under current practice, a prospective contractor may have engaged in egregious activities relating to labor or employment practices and still be eligible to receive federal contracts. These activities currently do not call into question any aspect of the prospective contractor’s responsibility. In some cases, the egregious activities may have been adjudicated and found illegal, but more commonly, a contractor has no such finally adjudicated violations, and there are instead pending charges -- sometimes many of them -- that will take time to wend their way through the administrative process at the NLRB, the EEOC or through the courts. Sometimes the allegations are never adjudicated; for example, most unfair labor practice complaints are ultimately settled.

**Proposal:** Add to the FAR language indicating that the responsibility determination must take into account whether the bidder has “a satisfactory record of labor and employment policies and practices.” (This language parallels the existing provision requiring “a satisfactory record of integrity and business ethics”.)

**Pro:** The existing FAR already allows contracting officers to weigh the bidder’s “business ethics”, its “integrity” and its “capability” to perform the contract. Factors that may be considered in assessing capability include “safety” and “energy/environmental considerations”. Labor relations and employment conditions are and equally important and appropriate consideration, and the Administration ought to say so clearly in the FAR.

**Con:** Evaluating “satisfactory” labor relations and employment conditions is a qualitative judgment that contracting officers are not well equipped to make, especially where the disputed actions or conditions have not been adjudicated. Compliance will also be burdensome for contractors who will have to worry about meeting a non-quantifiable standard.

**Positions:** **Labor** recommends that you authorize all three actions. **Commerce** recommends that you authorize (a) (“defense costs”) but not (b) (“persuading costs”) or © (“responsible contractor” amendments). Commerce believes that persuading costs will be too nettlesome to implement as a practical matter; contracting officers will not be able adequately to discern reimbursable activity from non-reimbursable activity. **SBA** urges that you authorize (a) but not (c). As to the responsible contractor amendments, SBA urges that the Procurement Council issue interpretive guidance indicating that labor and employment practices and policies should be taken into account, but that the FAR should not be amended. (This approach was explored with AFL-CIO, but was deemed by them inadequate to reach the goal since such interpretive guidance has no force of law.) **OMB** concurs with SBA. **Treasury** recommends that you authorize (a) and (c), but not (b) for the same difficulty of implementation reason offered by Commerce.

**Recommendation:** I recommend that you authorize all three initiatives. There is no disagreement as to (a). The second initiative is described by those who oppose it as difficult to implement, but not impossible. If we go forward with (a) and leave (b) undone, we will be subject to the reasonable criticism that we are continuing to allow the use of taxpayers’ money to underwrite anti-union proselytizing even though we have gone to the trouble to eliminate reimbursement of defense costs. The third initiative, the responsible contractor amendments, is a reasonable policy choice that puts the Administration clearly on record, through regulatory amendments that have the force of law, that a contractor’s practices and policies with respect to labor and employment are important considerations. Its practical effect will be to afford unions a “hook” in the regulations to present relevant information to contracting officers about truly egregious situations involving a pattern of abusive labor and employment practices.

\_\_\_\_\_ **Agree**                      \_\_\_\_\_ **Disagree**                      \_\_\_\_\_ **Let’s Discuss**

**2. Possible executive order encouraging the use of project labor agreements**

Project labor agreements, also known as “pre-hire agreements,” are specially negotiated agreements between a project owner or construction manager and one or more labor organizations. The agreements are reached at the outset of a project in order to ensure efficient, timely and quality work; establish fair and consistent labor standards and work rules; supply a skilled, experienced and highly competent workforce; and assure stable labor-management relations throughout the term of the project. These agreements have long been used for public and private construction projects that involve a large volume of work, extend over a substantial period of time, include a substantial number of contractors, and entail substantial costs. It is

well established that these agreements are effective and may be lawfully used in both the private and public sector for construction industry projects.

**Proposal:** Issue an Executive Order that directs Executive departments and agencies authorized to implement or fund a project for the construction of a federal facility to determine on a project-by-project basis whether a project labor agreement will promote labor-management stability; advance the public interest in economical, efficient, quality and time project performance; and assist project compliance with applicable legal requirements governing health and safety, equal employment opportunity, and labor standards. **The Executive Order would not require the use of a project labor agreement on any particular project.**

**Pro:** Project labor agreements are useful and lawful, but federal agencies may not be aware of their availability and have not been using them in a significant way. Issuing an Executive Order would make clear that federal contracting agencies have this authority and should consider using such agreements in appropriate circumstances.

**Con:** No serious objections or downsides have been identified, although this action, in combination with other actions on the list of labor-related initiatives and announcements you authorize could send a signal as to the tone you intend to take on labor-management issues.

**Positions:** All of the agencies support issuance of an executive order that encourages but does not require the use of these agreements.

**Recommendation:** I recommend that you authorize issuance of the proposed executive order.

\_\_\_\_\_ **Agree**

\_\_\_\_\_ **Disagree**

\_\_\_\_\_ **Let's Discuss**

### **3. Possible linkage of flex time legislation to legislation that expands the FMLA**

The two comp time bills currently being considered on the Hill -- both Republican-sponsored -- fail to address FMLA expansion, and provide fewer guarantees of employee choice and fewer protections against potential abuse than your flex time bill, which was sent to Congress last September.

Specifically, the bills do not exclude vulnerable workers; do not include special protections for workers whose employers go bankrupt; do not guarantee real choice for employees; among other shortcomings. The Ashcroft comp time bill in particular has provisions that would effectively eliminate the 40-hour week. The labor movement strongly opposes the Republican comp time bills, and finds these Ashcroft provisions to be particularly offensive.

With respect to FMLA, Democrats in both houses have introduced bills to expand the

current law. Several bills are consistent with your proposal to expand FMLA for an additional 24 hours for the purposes of routine medical care for children and elderly parents or school related activities. Other Democratic bills would lower the threshold of FMLA applicability from 50 to 25 employees, a provision that was not included in your bill. Predictably, while most Republicans oppose FMLA expansion, the bills have support from women's groups and the labor movement. The Democratic legislative strategy is to try to add FMLA expansion to the Republican bills while criticizing their comp time components.

In light of this strategy, the labor movement has urged that the Administration threaten to veto any bill that does not (1) link FMLA expansion and flex time, and (2) improve the comp time provisions to provide real choice and real protections for employees (as in your flex time bill).

**Proposal:** Our proposal is different from what AFL-CIO is urging in that we think you should stop short of saying that you will veto any flex time bill that does not include FMLA expansion. Rather, we would establish as the Administration's position that there should be a link between FMLA expansion and any flex time legislation; that any flex time proposal should address our principles, as spelled out in your bill from last year (i.e., real choice for employees; real protection against employer abuse; and preservation of basic worker rights, such as the 40-hour work week); and that you will veto any comp time bill that does not address these flex time principles in a meaningful way.

**Pro:** This position would strengthen the position of congressional Democrats to improve the Republican bills. It would also be welcomed by constituency groups that view the Republican bills as a weakening of employee protection laws. Since this strategy does not threaten a veto if FMLA expansion is not in a final bill, the strategy does not lock you in to a veto of an otherwise acceptable flex time bill.

**Con:** AFL-CIO would prefer that you threaten to veto any bill that does not include an expansion of FMLA. Under this strategy, you might have to veto a comp time bill, although it would be one that falls far short of the family-friendly principles you have laid out.

**Recommendation:** I recommend -- along with the NEC members -- the proposal discussed above that you (1) express support for FMLA expansion and flex time and (2) threaten to veto a comp time bill if your principles are not addressed. I recommend that you not lock yourself into saying that you will veto any flex time bill that does not include FMLA expansion.

\_\_\_\_\_ **Agree**

\_\_\_\_\_ **Disagree**

\_\_\_\_\_ **Let's Discuss**

*[Does Legislative Affairs want to offer a different recommendation?]*

\_\_\_\_\_ **Agree**                      \_\_\_\_\_ **Disagree**                      \_\_\_\_\_ **Let's Discuss**

4. **Position on Beck legislation aimed at limiting the use of union dues in political activity**

[DPC (Elena) is writing this section of the memo]

**Status and positions:**

5. **Restating last year's veto threats on (i) TEAM legislation (ii) Davis-Bacon legislation and (iii) legislation to weaken OSHA.**

Last year, you indicated you would veto the TEAM bill and the other two legislative proposals. It is proposed that the Vice President would restate your position in Los Angeles, with language that leaves room for improvements in TEAM legislation that you may conclude somewhere down the road that you may wish to sign.

**Positions:** There was consensus among the members of your NEC that restating your previous positions with carefully crafted language that does not prevent you from considering an improved TEAM bill would be the right path to take.

**Recommendation:** I recommend that we go ahead and restate your previous positions. The exact wording used will be vetted beforehand.

\_\_\_\_\_ **Agree**                      \_\_\_\_\_ **Disagree**                      \_\_\_\_\_ **Let's Discuss**

6. **Welfare reform and minimum wage**

[DPC (Elena) is writing this section]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-FEB-1997 12:23:51.00

SUBJECT: hhs adoption report

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

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

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

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

TO: Lester D. Cash ( CN=Lester D. Cash/OU=OMB/O=EOP @ EOP [ OMB ] )  
READ:UNKNOWN

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

TEXT:

FYI, HHS projects that it will get us the next draft of the report at around 2pm today. They will simultaneously transmit it to the Secretary for her signature, but have made arrangements to make changes if necessary. As soon as we receive the report, the 2-hour hourglass turns over...

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elizabeth Drye ( CN=Elizabeth Drye/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:12-FEB-1997 16:20:39.00

SUBJECT: tobacco

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

READ:UNKNOWN

TEXT:

Just got from Dennis the page for next steps on tobacco and will get it to you shortly. Sorry



**BRUCE REED**

**Daily Schedule for  
Thursday  
February 13, 1997**

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**9:45 American Federation  
Of Teachers  
(Your office)**

**11:30 Rich Little  
(Your office)**

**11:30 CPI Briefing  
(Erskine) EK**

**1:00 Rick Dunham  
DPC Story  
(Your office)**

**2:00 Ed Strategy Meeting  
(Your office)**

**3:00 Needle Exchange  
Meeting  
(Your office)**

**4:00 Health Care Strategy  
Meeting  
(Your office)**

**5:00 Speechwriting Mtg  
Business Enterprise  
(Baer's office)**

**6:00 Reception  
Kennedy Center  
Atrium**

**7:30 Rosewood  
Terrace Theatre**

RECORD TYPE: PRESIDENTIAL (EXTERNAL MAIL)

CREATOR: Stuart M. Schear@EOP@LNGTWY@EOPMRX

CREATION DATE/TIME:12-FEB-1997 19:08:00.00

SUBJECT: WEEKEND TV

TO: GOLDBERG\_JS ( GOLDBERG\_JS@A1@CD ) (WHO)  
READ:NOT READ

TO: JOHNSON\_DT ( JOHNSON\_DT@A1@CD ) (NSC)  
READ:NOT READ

TO: ABERNATHY\_P ( ABERNATHY\_P@A1@CD ) (OPD)  
READ:NOT READ

TO: BERMAN\_E ( BERMAN\_E@A1@CD )  
READ:NOT READ

TO: BLINKEN\_A ( BLINKEN\_A@A1@CD ) (NSC)  
READ:12-FEB-1997 21:24:59.59

TO: BURKE\_D ( BURKE\_D@A1@CD ) (OPD)  
READ:NOT READ

TO: HAAS\_L ( HAAS\_L@A1@CD ) (OMB)  
READ:13-FEB-1997 14:30:29.45

TO: JENNINGS\_C ( JENNINGS\_C@A1@CD ) (WHO)  
READ:NOT READ

TO: JOLIN\_M ( JOLIN\_M@A1@CD ) (WHO)  
READ:13-FEB-1997 09:21:09.30

TO: KAGAN\_E ( KAGAN\_E@A1@CD ) (OPD)  
READ:NOT READ

TO: MAYS\_C ( MAYS\_C@A1@CD ) (OPD)  
READ:NOT READ

TO: MCHUGH\_L ( MCHUGH\_L@A1@CD ) (WHO)  
READ:12-FEB-1997 19:11:12.24

TO: MOFFETT\_J ( MOFFETT\_J@A1@CD ) (WHO)  
READ:NOT READ

TO: NAPLAN\_S ( NAPLAN\_S@A1@CD ) (NSC)  
READ:12-FEB-1997 19:14:07.69

TO: REED\_B ( REED\_B@A1@CD ) (OPD)  
READ:NOT READ

TO: SPERLING\_G ( SPERLING\_G@A1@CD ) (OPD)  
READ:NOT READ

TO: WARREN\_M ( WARREN\_M@A1@CD ) (OPD)  
READ:NOT READ

TO: WOZNIAK\_N ( WOZNIAK\_N@A1@CD ) (NSC)

READ:13-FEB-1997 13:12:51.01

TO: GREEN\_MG ( GREEN\_MG@A1@CD ) (OPD)  
READ:NOT READ

TO: MAPLE\_D ( MAPLE\_D@A1@CD ) (DON)  
READ:NOT READ

TO: Michael D. McCurry ( Michael D. McCurry@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Lori L. Anderson ( Lori L. Anderson@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Eli G. Attie ( Eli G. Attie@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Donald A. Baer ( Donald A. Baer@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: David S. Beaubaire ( David S. Beaubaire@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Daniel E. Bernal ( Daniel E. Bernal@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Marsha E. Berry ( Marsha E. Berry@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Sandra L. Bublick Max ( Sandra L. Bublick Max@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Holly D. Carver ( Holly D. Carver@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Michelle Crisci ( Michelle Crisci@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Lanny J. Davis ( Lanny J. Davis@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Rahm I. Emanuel ( Rahm I. Emanuel@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Paul K. Engskov ( Paul K. Engskov@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Karen E. Finney ( Karen E. Finney@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Jeremy M. Gaines ( Jeremy M. Gaines@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Mary E. Glynn ( Mary E. Glynn@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Adam W. Goldberg ( Adam W. Goldberg@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Julia R. Green ( Julia R. Green@EOP@LNGTWY@EOPMRX )

READ:NOT READ

TO: John A. Gribben ( John A. Gribben@EOP@LN GTWY@EOPMRX )  
READ:NOT READ

TO: Lawrence J. Haas ( Lawrence J. Haas@EOP@LN GTWY@EOPMRX )  
READ:NOT READ

TO: Nancy V. Hernreich ( Nancy V. Hernreich@EOP@LN GTWY@EOPMRX )  
READ:NOT READ

TO: Kathryn O. Higgins ( Kathryn O. Higgins@EOP@LN GTWY@EOPMRX )  
READ:NOT READ

TO: John L. Hilley ( John L. Hilley@EOP@LN GTWY@EOPMRX )  
READ:NOT READ

TO: Russell W. Horwitz ( Russell W. Horwitz@EOP@LN GTWY@EOPMRX )  
READ:NOT READ

TO: Karen L. Hancox ( Karen L. Hancox@EOP@LN GTWY@EOPMRX )  
READ:NOT READ

TO: Mary A. Dixon ( Mary A. Dixon@EOP@LN GTWY@EOPMRX )  
READ:NOT READ

TO: Elena Kagan ( Elena Kagan@EOP@LN GTWY@EOPMRX )  
READ:NOT READ

TO: Angus S. King ( Angus S. King@EOP@LN GTWY@EOPMRX )  
READ:NOT READ

TO: Karin Kullman ( Karin Kullman@EOP@LN GTWY@EOPMRX )  
READ:NOT READ

TO: G N. Lattimore ( G N. Lattimore@EOP@LN GTWY@EOPMRX )  
READ:NOT READ

TO: Patricia F. Lewis ( Patricia F. Lewis@EOP@LN GTWY@EOPMRX )  
READ:NOT READ

TO: Peggy A. Lewis ( Peggy A. Lewis@EOP@LN GTWY@EOPMRX )  
READ:NOT READ

TO: Gordon Li ( Gordon Li@EOP@LN GTWY@EOPMRX )  
READ:NOT READ

TO: Julie E. Mason ( Julie E. Mason@EOP@LN GTWY@EOPMRX )  
READ:NOT READ

TO: Sylvia M. Mathews ( Sylvia M. Mathews@EOP@LN GTWY@EOPMRX )  
READ:NOT READ

TO: April K. Mellody ( April K. Mellody@EOP@LN GTWY@EOPMRX )  
READ:NOT READ

TO: Anne E. McGuire ( Anne E. McGuire@EOP@LN GTWY@EOPMRX )  
READ:NOT READ

TO: Cheryl D. Mills ( Cheryl D. Mills@EOP@LN GTWY@EOPMRX )

READ:NOT READ

TO: Kevin S. Moran ( Kevin S. Moran@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Elizabeth A. Myers ( Elizabeth A. Myers@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: John Podesta ( John Podesta@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Karen A. Popp ( Karen A. Popp@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Victoria Radd ( Victoria Radd@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Bruce N. Reed ( Bruce N. Reed@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Rica F. Rodman ( Rica F. Rodman@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Steven J. Ronnel ( Steven J. Ronnel@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Victoria A. Schaefer ( Victoria A. Schaefer@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Stuart M. Schear ( Stuart M. Schear@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Laura D. Schwartz ( Laura D. Schwartz@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Jennifer V. Senan ( Jennifer V. Senan@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Wendy Smith ( Wendy Smith@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Douglas B. Sosnik ( Douglas B. Sosnik@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Darby E. Stott ( Darby E. Stott@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: John O. Sutton ( John O. Sutton@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Virginia M. Terzano ( Virginia M. Terzano@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Terri J. Tingen ( Terri J. Tingen@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Barry J. Toiv ( Barry J. Toiv@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: June G. Turner ( June G. Turner@EOP@LNGTWY@EOPMRX )

READ:NOT READ

TO: Peter G. Umhofer ( Peter G. Umhofer@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Molly Varney ( Molly Varney@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Dag Vega ( Dag Vega@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Sally J. Aman ( Sally J. Aman@OVP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Joseph W. Cerrell ( Joseph W. Cerrell@OVP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Ron Klain ( Ron Klain@OVP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Heidi Kukis ( Heidi Kukis@OVP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Julia M. Payne ( Julia M. Payne@OVP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Virginia M. Terzano ( Virginia M. Terzano@OVP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Lorraine A. Voles ( Lorraine A. Voles@OVP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: JOHNSON\_DT ( JOHNSON\_DT@A1@CD@LNGTWY@LNGTWY@EOPMRX ) (  
READ:12-FEB-1997 19:17:43.15

TO: Kathleen M. McKiernan ( Kathleen M. McKiernan@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Sara M. Latham ( Sara M. Latham@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Jessica R. Arons ( Jessica R. Arons@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Brenda M. Anders ( Brenda M. Anders@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Beverly J. Barnes ( Beverly J. Barnes@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Ann F. Lewis ( Ann F. Lewis@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Todd Stern ( Todd Stern@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Jake Siewert ( Jake Siewert@EOP@LNGTWY@EOPMRX )  
READ:NOT READ

TO: Kathleen M. Wallman ( Kathleen M. Wallman@EOP@LNGTWY@EOPMRX )



FEBRUARY 12, 1997

MEMORANDUM TO MIKE MCCURRY AND DON BAER  
FROM STUART SCHEAR  
SUBJECT WEEKEND TELEVISION  
COMMENT FOCUS ON WH WOES & AIR STRIKE

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FRIDAY FEBRUARY 14

WASHINGTON WEEK IN REVIEW

Topic TBD  
Guest TBD

SATURDAY FEBRUARY 15

EVANS & NOVAK (CNN)

Topic Foreign Affairs  
Guest Jesse Helms

INSIDE POLITICS WEEKEND (CNN)

Topic TBD  
Guest TBD

SUNDAY FEBRUARY 16

FOX NEWS SUNDAY (FOX)

Topic White House Legal Woes  
Guest Request for WH Official

Roundtable Britt Hume & others TBD

FACE THE NATION (CBS)

Topic Whitewater Update  
Guest Michael Chertoff  
Guest Request for WH Official  
Roundtable TBD

THIS WEEK (ABC)

Topic Foreign Affairs  
Guest Request for UN Ambassador Richardson

Topic Air Safety  
Guest Request for Jim Hall NTSB

Topic Air Strike  
Guest Pilots Rep. & American Airline Rep.  
Guest Request for Secy. Slater

MEET (NBC)

Topic Air Strike  
Guest Request for Secy. Slater

Topic TBD  
Guest TBD

Roundtable TBD

LATE EDITION (CNN)

Topic Air Strike  
Guest Request for Secy. Slater

Topic Race in America  
Guest TBD

Roundtable TBD

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Peter G. Jacoby ( CN=Peter G. Jacoby/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:12-FEB-1997 19:34:55.00

SUBJECT: Campaign Finance Reform Meeting to Discuss Spending Cap Alternatives

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

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

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

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

TO: FOLEY\_M ( FOLEY\_M @ A1 @ CD @ LNGTWY [ EOP ] ) (WHO)  
READ:UNKNOWN

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

TEXT:

On Friday, 2/14 from 3pm to 4pm in 472 OEOB we will have a meeting to discuss alternative spending cap plans for campaign finance reform. We will review and discuss several alternative spending cap plans that do not include aggregate spending caps as currently envisioned in McCain-Feingold and Shays-Meehan. Data on these alternative plans, and how they would have impacted last fall's Senate races, will be distributed on Thursday. Hope you can attend.



January 26, 1997

MEMORANDUM FOR ERSKINE BOWLES

FROM: JOHN HILLEY  
PETER JACOBY

RE: ORGANIZED LABOR'S CONCERN WITH CODIFYING THE SUPREME COURT'S DECISION IN COMMUNICATIONS WORKERS v. BECK IN CAMPAIGN FINANCE REFORM LEGISLATION

Organized labor's high-profile participation in the last election cycle has intensified Republican efforts to include a codification of the Supreme Court's 1988 decision in Communications Workers v. Beck in any campaign finance reform legislation that passes Congress. It is likely that organized labor will want to know the President's position on this issue as soon as possible.

***Background***

In 1988 the Supreme Court decided in Communications v. Beck that a union may not, over the objections of *dues-paying nonmember employees*, expend funds collected from them on activities unrelated to collective bargaining activities.

The suit in Beck was brought by employees who chose not to become members of the union that represented them. They specifically objected to being required to pay union dues that were used -- in part-- for organizing, legislative lobbying, and participating in political events. The Court found that under federal labor law, Congress authorized compulsory unionism only to the extent necessary to ensure that those who enjoy union-negotiated benefits contribute to their costs. As a result, the Court held that non-member employees cannot be required to contribute to union activities "beyond those germane to collective bargaining, contract administration, and grievance adjustment." The practical effect is that in a workplace where a union represents non-members (i.e., a "closed" shop where every worker is not a union member), the union must charge these non-members "agency fees" at a level below regular union dues. This reduction reflects the percentage of a union member's dues spent on "non-representational" activities.

Since 1988, the implementation of Beck has been controversial. Labor unions have set up procedures to make sure that objecting employees are not required to pay for non-representational activities but full scale efforts to inform all union members and non-members of the rights under Beck have been spotty. Additionally, it has often proven difficult for objecting employees to determine the exact percentage of dues that are spent on non-representational activities. Enforcement of Beck rights ultimately falls to the National Labor Relations Board (NLRB) where employees may file unfair labor practice charges against any union. Critics charge that the NLRB has been slow in acting on Beck cases and rather than issuing general rules, has considered Beck issues on a case-by-case basis. The NLRB's first decision in this area was not issued until late 1995 and it is currently under appeal. Finally, a

proposed rulemaking implementing Beck, which was first issued for comment in 1992, was withdrawn in 1996 by the NLRB to allow them to consider the outcome of several pending Beck cases.

Since the 1988 decision, organized labor has strongly, and successfully, fought consistent Congressional Republican efforts to implement the Beck holdings through statute. These efforts reached their zenith in 1996 when the House considered the Republican leadership's campaign finance reform bill which included a broad codification of Beck. The measure was ultimately defeated, however, in part by moderate, pro-labor Republicans voting against the codification language. Unions argue that since 1947 they have been prohibited from using dues money to make campaign contributions. Additionally, under the Federal Elections Control Act (FECA) union political expenditures can only be financed by voluntary contributions through political action committees. Finally, unions are specifically allowed to use their dues to communicate with their members "on any subject" and to conduct "non-partisan voter registration and get-out-the-vote campaigns ... aimed at members and their families."

In the new Congress, Republican leaders in both Houses have already gone on the offensive. Republican campaign finance reform rhetoric now includes obligatory calls to "codify the Beck decision", as well as references to union dues as the only source of involuntary campaign spending. On the first day of the session, Senators Lott and Nickles introduced a measure to codify Beck as one of the Senate Republican leadership's first bills. In the House, Congressman Bill Thomas (R-CA), chairman of the House Oversight Committee, is considering similar legislation. In the past, Congressional Republicans have tried to broaden the codification of Beck to include all *union members* as well as the non-members represented by unions that were addressed in the original decision. This expansive codification is expected to be the focus of Republican leadership efforts in the current Congress.

### ***Talking Points for Meeting with Organized Labor***

- The President has declared his strong and serious commitment to passing comprehensive, bipartisan campaign finance reform legislation this year.
- The President has also stated that one of his core principles for campaign finance reform is that a bill must not favor one party over the other. Therefore any provision in the bill which disadvantaged one party over the other would seriously concern the President
- He understands that any campaign finance vehicle is extremely likely to attract a Beck codification provision. If such a provision is so broad that it would disadvantage one party over the other, that provision would be opposed by the White House.
- As a practical matter, it would be useful to know if there is any version of language to codify Beck that is acceptable to the unions. It is always a better strategy to have an acceptable alternative to support in the face of an unacceptable provision.
- We will work closely with you at every step of the legislative process. We are aware of

your concerns and would like to satisfactorily address the Beck issue as this bill proceeds.