

NLWJC - KAGAN

EMAILS RECEIVED

ARMS - BOX 046 - FOLDER -009

[03/05/1999]

Withdrawal/Redaction Sheet

Clinton Library

DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
001. email	Todd Stern to Elena Kagan; RE: Dinner (1 page)	03/05/1999	Personal Misfile
002. email	Todd Stern to Elena Kagan; RE: Dinner (1 page)	03/05/1999	Personal Misfile

COLLECTION:

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

FOLDER TITLE:

[03/05/1999]

2009-1006-F
db1585

RESTRICTION CODES

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

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

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

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

RR. Document will be reviewed upon request.

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

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

Withdrawal/Redaction Marker

Clinton Library

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Tanya E. Martin (CN=Tanya E. Martin/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 5-MAR-1999 09:47:33.00

SUBJECT: Draft Statement

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

In the next few days, we have an excellent opportunity to work across party lines and show the American people that we are making real progress in improving our schools. I strongly support the efforts of Senators Daschle, Murray and Kennedy to offer a class size amendment to authorize funding for 100,000 new, well-prepared teachers to reduce class size to a national average of 18 in the early grades. We have to act now when local hiring decisions are being made to let local communities know that we have a long-term committment to reduce class size. I urge the Republican leadership to allow a vote on this important amendment, and I urge every Senator to support this effort give our nation's childrdren the individual attention they deserve in the classroom and the better future only a good education can bring.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Michael Waldman (CN=Michael Waldman/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 5-MAR-1999 10:12:50.00

SUBJECT: Re: Just Heard

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

READ:UNKNOWN

TEXT:

----- Forwarded by Michael Waldman/WHO/EOP on 03/05/99
10:13 AM -----

Bruce N. Reed
03/05/99 09:56:35 AM
Record Type: Record

To: Michael Waldman/WHO/EOP
cc:
Subject: Re: Just Heard

Here's one approach, nothing great
----- Forwarded by Bruce N. Reed/OPD/EOP on 03/05/99
09:58 AM -----

Bruce N. Reed
03/05/99 09:55:54 AM
Record Type: Record

To: Jordan Tamagni/WHO/EOP
cc:
Subject: Re: Just Heard

Yes, definitely toughen up that paragraph about the vote. Here's one idea:

Last October, just before the November election, Republican members of Congress joined us in promising the American people more teachers and smaller classes. Now, just four months later, Republican leaders won't even allow a vote to reduce class size. This is the first big test of whether this Congress is willing to work together to get things done, and whether this Congress is serious about education. The choice is simple: Are we going to give Americans smaller classes, or more partisanship?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Mary L. Smith (CN=Mary L. Smith/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 5-MAR-1999 10:53:29.00

SUBJECT: Latest Draft of NAS Report on Food Safety

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

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

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

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

TEXT:

I will send you both the latest copy of the Reponse to the NAS Report on Food Safety. Elena had been concerned that the report was too negative in its assessment of factors that needed to be considered before we performed any organizational restructuring. Below is the revised language:

Factors to Consider in Organizational Restructuring

The Council assessment of structural and organizational options must take into consideration the following factors:

There are numerous instances in the existing food safety system where the division of regulatory responsibility is not optimal. For example, within the same plant, FSIS and FDA inspectors are often responsible for different foods. FDA and FSIS also share regulatory responsibility of eggs and egg products. Examples such as these create stakeholder confusion and inefficient allocation of resources. Any reorganization must consider areas where there is significant jurisdictional overlap. Many food safety issues would be difficult to resolve in reorganization. For example, some issues like bovine spongiform encephalopathy are both animal health issues and human health issues. Foodborne disease problems may also be waterborne disease problems. Other programs, particularly research and education programs for food safety often do not operate as separate activities within the agencies, but rather draw significant strength from one another. While some projects are entirely focused on food safety, the food safety research portfolio includes many other projects in such areas as animal health and animal genetics. Reorganization must also accommodate successful partnerships such as the Partnership for Food Safety Education.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Cathy R. Mays (CN=Cathy R. Mays/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 5-MAR-1999 10:59:12.00

SUBJECT: Crime Strategy Meeting

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

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

TO: Charles A. Blanchard (CN=Charles A. Blanchard/OU=ONDCP/O=EOP @ EOP [ONDCP])
READ:UNKNOWN

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

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

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

CC: Jason H. Schechter (CN=Jason H. Schechter/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

CC: Essence P. Washington (CN=Essence P. Washington/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

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

TEXT:

The next Crime Strategy Meeting is scheduled for Monday, March 15, at 3:00 p.m. in Bruce Reed's office, 2 Floor, West Wing.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jose Cerda III (CN=Jose Cerda III/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 5-MAR-1999 11:03:43.00

SUBJECT: From Today's New Republic

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:

The Gatekeeper

By Jason Zengerle

Clinton and Gore's mentor on race.

In April, the Government Printing Office, fresh from the success of its widely read Starr referral, will publish another potential blockbuster: President Clinton's book about race in America. A combination of personal reflections, social science data, and policy prescriptions, the 100- to 200-page book (whose working titles have included One America and Out of Many, One) will be the capstone to the President's Initiative on Race. "I said to the president," explains Christopher Edley, the Harvard Law professor who has served as a consultant to the race initiative, "I want to read Bill Clinton's book on race." So Edley--with the help of about 50 other people--is writing it for him.

That Clinton has turned to Chris Edley to "draft" his race book is no surprise. Not only is Edley a prominent black academic--he was the fourth African American in the history of Harvard Law School to get tenure--but he is also a member in good standing of Clinton's inner circle. In 1992 Edley served on Clinton's economic policy transition team, and in 1993 he took a leave from Harvard to work as an associate director in Clinton's Office of Management and Budget. When I asked Edley for a list of people who could tell me about him, he sent back the following names: George Stephanopoulos, Erskine Bowles, Leon Panetta, Alice Rivlin, Henry Cisneros, James Lee Witt, Gene Sperling, Larry Summers, and Bob Rubin. The only person Edley seemed to have left out was Clinton himself--although Stephanopoulos made sure to recommend that I speak to the president for this piece. It is on race where Edley has been the most influential with the Clinton crowd. Shortly after resigning from his OMB post in 1995, Edley was pressed back into service by Stephanopoulos, who sought Edley's assistance in conducting the

administration's review of affirmative action programs. Edley's staunch support of preferences helped shape the review's politically expedient conclusion: "Mend it, don't end it." After the affirmative action review, Edley went to work on the president's race initiative, where his uncharitable view of affirmative action opponents was reflected in the extreme reluctance of the race initiative's advisory board to engage in a dialogue on the issue with conservatives. Now Edley's toiling away on the president's book, lending his own perspective as a black man to what will ultimately be the president's definitive statement about race in America.

And Edley's influence won't end there. Along with the Kennedy School's Elaine Kamarck, Edley is heading up the policy shop for Al Gore's 2000 campaign. Edley's work will influence the campaign on many issues-- from Gore's livability agenda to his lifelong learning proposal--but, again, it's on race where his fingerprints are already most visible. One of Edley's first tasks for Gore was helping with the vice president's 1998 Martin Luther King Day speech at Atlanta's Ebenezer Baptist Church, in which Gore railed against proponents of color-blindness, lapsed into a preacher's cadence, and soaked up the congregation's approval. "He's good at connecting," Edley says of Gore's interactions with black audiences. "One way you can tell is when he loses the draft and he starts working off the energy and he's got a comfort level. And I've seen Gore do that, so he's just fine."

But what's fine for Edley may not necessarily be fine for those who contend that the Democratic Party needs to have a more open debate on affirmative action and related issues. Indeed, while Clinton and Gore say that they want to think outside the box on issues of race--questioning old assumptions and abandoning old dogmas--the man they have most frequently turned to for help with this task represents the antithesis of this sensibility. With his close ties to the mainstream civil rights community--Edley's father is a former president of the United Negro College Fund, and Edley himself is a former board member of the Congressional Black Caucus Foundation--Edley is that community's voice inside the administration, and he is largely responsible for advancing its agenda.

Although Edley pays lip service to finding common ground on issues of race--or, as he charitably puts it, "searching for the kernel of truth" in his opponents' arguments--he's unbending in his views and unsympathetic toward those with whom he disagrees. As Edley once wrote in an online forum for The Atlantic Monthly, affirmative action opponents are not "soldiers for justice" but instead are

"counterrevolutionaries" whose "real goal is to protect the current distribution of privilege and opportunity that has produced white-male elites in virtually every sector."

For Edley, such rhetoric is likely a hallmark of a career that has been as political as it's been academic. While a student at Harvard Law School, he interrupted his studies to run the situation room for Jimmy Carter's 1976 presidential campaign. And, after becoming the law school's first secondgeneration black graduate (his father, Christopher Edley Sr., had gone there), Edley went to Washington to work in Carter's domestic policy office and then in the Department of Health, Education, and Welfare.

The Reagan era sent Edley fleeing into academia, but even then he needed his political fix. So he accepted a position on The Washington Post's editorial board and commuted back and forth between Cambridge and Washington for more than a year; in 1987 he took a leave from the law school to serve as issues director for Michael Dukakis's ill-fated presidential run. Although he's back teaching at Harvard today, Edley spends roughly four days a week in Washington, finishing up Clinton's race book and working on issues for Gore. "Chris is not an intellectual," says Glenn C. Loury, the Boston University economist (and tnr contributing editor) who, as a black conservative, has clashed with Edley on race issues. "He's an operative. He's the Democrats' Bill Kristol or something."

Except that, unlike Kristol, Edley has the ears of the president and the vice president. Consider, for instance, the influence he wielded on the affirmative action review. Edley was the most forceful proponent of race-conscious affirmative action programs. While some Clinton aides felt that affirmative action should become class-based, Edley argued on behalf of the continuing significance of race. When the final report was issued, race-conscious programs received Clinton's endorsement. Similarly, Edley argued that affirmative action was justified on forward-looking diversity grounds, instead of simply as a remedy to past discrimination. This view has also become administration cant.

Most important for a staunch affirmative action supporter like Edley, the affirmative action review--although promulgating the ostensibly reformist line of "mend it, don't end it"--ultimately produced a strong brief in favor of preferences, which, at the time of the review, were under serious fire from Congress and the courts. Nearly four years after the review was finished, the mending of government affirmative action programs has been largely cosmetic, and

affirmative action opponents have been effectively neutralized. "What we managed to do was both establish a principled defense of programs and help transform affirmative action from a political loser into something of a political winner," boasts Stephanopoulos.

On the race initiative, Edley argued successfully against the creation of an independent, Kerner Commission-type advisory board. Instead, Edley wanted the White House to "own" the advisory board; and it did, ultimately to the board's detriment. "I think we were independent people," says Tom Kean, the former New Jersey governor who was one of the board's seven members. "But, when we wanted to be independent, the White House would pull us back because they didn't want us to do anything that would embarrass or trouble the president and the vice president." In the end, the advisory board produced a timid, forgettable report.

Edley also weighed in against engaging conservatives in the board's deliberations. He urged the White House not to invite affirmative action opponent Abigail Thernstrom--whose book *America in Black and White* he had actually called a "crime against humanity"--to an Oval Office meeting between Clinton, Gore, members of the advisory board, and conservative critics of the administration's policies. And, although he ended up losing that battle--Thernstrom was invited--Edley won the war: save for that one meeting, conservatives were essentially frozen out of the race initiative. "It was a good meeting," Kean recalls. "The problem was there was no follow-up. The sad thing was everybody in that meeting pledged to work with the president on the initiative, they asked to be kept in touch, and to the best of my knowledge none of them was ever contacted again."

Of course, it's hardly surprising that Edley wouldn't seek their input. Although Edley has little trouble articulating abstract criticisms of affirmative action--before he ultimately shoots them down--he's reluctant to attribute those contrary arguments to actual people. So, when I ask Edley if he can name one affirmative action critic who is arguing in good faith--i.e., one affirmative action critic who isn't seeking to do in black people--he rubs his eyes and falls silent. After a long pause he mentions Richard Kahlenberg--a writer who has argued for class-based affirmative action programs (in *tnr*, among other places) but who nonetheless wrote a favorable review in *The Washington Monthly* of Edley's pro-race-based affirmative action tome, *Not All Black and White*. After Kahlenberg, though, Edley can't name one. "There's lots of people out there whose motives I think are suspect," he says.

Black critics of affirmative action fare no better. In Edley's estimation, they have cynically sold out their principles in exchange for publicity. "I could get an enormous amount of print from The Wall Street Journal or The New Republic if I decided to attack affirmative action and repudiate mainstream civil rights positions," he explains. "And I think there's no shortage of people who have been seduced by the glitter." Of course, given Edley's influence with Clinton and Gore, he's not exactly lacking in the glitter department himself.

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RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: MaryEllen C. McGuire (CN=MaryEllen C. McGuire/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 5-MAR-1999 11:15:57.00

SUBJECT: AmeriCorps Visibility Conference Call

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

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

TO: Tanya E. Martin (CN=Tanya E. Martin/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

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

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

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

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

TO: JGompert (JGompert @ cns.gov @ inet [UNKNOWN])
READ:UNKNOWN

TO: Thurgood Marshall Jr (CN=Thurgood Marshall Jr/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

TO: Anne E. McGuire (CN=Anne E. McGuire/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

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

TO: Shirley S. Sagawa (CN=Shirley S. Sagawa/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

CC: TWest (TWest @ cns.gov @ inet [UNKNOWN])
READ:UNKNOWN

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

CC: Cathy R. Mays (CN=Cathy R. Mays/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Carolyn T. Wu (CN=Carolyn T. Wu/OU=WHO/O=EOP @ EOP [WHO])
READ:UNKNOWN

TEXT:

Reminder:

We will be having our biweekly AmeriCorps Visibility Conference call this coming Monday, March 8th at 4:00pm, 757-2100, code 4129

March 5, 1999

MEMORANDUM TO THE CHIEF OF STAFF

CC: Doug Sosnik
Karen Tramontano

FROM: Bruce Reed
Elena Kagan

SUBJECT: Long Term Priorities

MAJOR PRIORITIES

1. EDUCATION

Our major objectives on education over the next few months will be to: 1) win the argument that accountability, class size, and school construction must be national priorities; 2) keep Democrats united behind our accountability agenda; and 3) attack Republican efforts to regain credibility on education, such as Domenici's jumbo block grant and Coverdell's education savings accounts.

A. Education Accountability Act. Legislation to reauthorize the Elementary and Secondary Education Act which will require states and districts receiving federal funds to end social promotion, fix failing schools, end use of unqualified teachers, issue report cards, and institute discipline codes. Programs that are part of ESEA include Title I, After-School, Class Size (see below), Bilingual, Safe and Drug-Free, Technology, Charters, and Teacher Quality

I. Legislative Status: The administration plans to transmit its bill to Congress around the Easter recess. The reauthorization process is expected to run through much of 1999 and possibly into next year. The House has already started hearings on the bill. The Senate and House are expected to start mark-up this summer.

II. Presidential Actions:

- Announcement in late March or early April of bill transmittal, perhaps preceded by leaks on key unannounced components such as a new teacher quality initiative.
- Release of Dept. of Education social promotions guide. The President would like to visit a school district that has ended social promotion. He could accompany Tony Blair who is visiting Chicago's schools before the NATO Summit in late April.
- Release of Dept. of Education study on choice initiatives; the President would like to do an event at a charter school.
- Visit to a poor, rural school in Appalachia or the Delta.
- Address to a state legislature.
- Commencement at a teacher college.

III. Republican Agenda: ESEA is the centerpiece of the federal government's K-12 education policy. This is a top priority item for Republicans, who will seek to have ESEA reflect their key education initiatives -- flexibility, block grants, and possibly vouchers.

B. Ed-Flex Demonstration Program. Legislation to expand Ed-Flex to give all 50 states authority to waive certain federal rules in exchange for showing results.

I. Legislative Status: The Senate began debate on this bill this week, with a vote expected next week. The House Education and Workforce Committee is also planning to vote on counterpart legislation this week. The President has indicated that he will sign an Ed-Flex bill that has strengthened accountability to better link the waivers to student performance.

II. Presidential Actions:

- See below

III. Republican Agenda: Republicans have made Ed-Flex expansion their number one priority. It will be the first education vote this session. Flexibility is a key theme of their education agenda, and they will claim passage as a victory unless Democrats succeed in passing a class size amendment (see below).

C. Class Size. Legislation to authorize \$11.4 billion more over six years to complete the hiring 100,000 teachers and reduce class size in the early grades to the national average of 18. (We will still also need to appropriate \$1.4 billion in FY 2000).

I. Legislative Status: Senators Murray and Kennedy plan to offer a class size amendment to the Ed-Flex bill next week to authorize the program for the remaining six years in the President's proposal. The President strongly supports this amendment. In the House, members of the Education Committee will offer a class size amendment to the Ed-Flex bill this week, but this amendment probably will be blocked as non-germane.

II. Presidential Actions:

- March 6th radio address to release Dept of Education Class Size program guidance, and challenge Senate to adopt Murray-Kennedy amendment.
- Release today of local allocations for Class Size program.

III. Republican Agenda: This is not a program Republicans love, but they funded it in the last appropriations bill and are thus on record in support. Republicans would prefer to make class size an allowable use of a block grant proposal.

D. School Modernization. Legislation to create tax credits to support \$25 billion in bonds to help build, repair, or modernize up to 6,000 schools.

I. Legislative Status: Rep. Rangel will introduce the administration's school modernization proposal in the House. A Sense of the Senate resolution on this issue may be offered during the Ed-Flex debate. Ultimate success will come, if at all, on a larger tax vehicle.

II. Presidential Actions:

- Events or statements coordinated with legislative action.

III. Republican Agenda: Republicans will try to push an alternative “school construction” proposal, which would change arbitrage provisions for school bonds. The school superintendents organization supports this proposal; we will have to work hard to make the case that this proposal is fundamentally flawed (because the proceeds do not have to be used for school construction and go to districts that do not need assistance).

E. Education FY 2000 Appropriations Bill. Legislation to fund federal education programs, including after-school; turning-around failing schools; class size; Troops to Teachers; master teachers; GEAR-UP; Title I; technology grants; choice initiatives (charters, work-site and magnets); and Safe and Drug-Free Schools.

I. Legislative Status: Appropriations Committee hearings begin in March; final bills will get to the President in the late fall/early winter.

II. Presidential Actions:

- National Teacher of the Year event in April.
- FY 99 grants announcements -- e.g., after-school, charter school, teacher recruitment and quality, Gear-Up, technology.
- Reports on various issues -- e.g., charter schools, teacher quality, after-school.

III. Republican Agenda: Republicans probably will support increases in funding, but will try to push block grants and target increases towards IDEA (essentially a politically viable form of block grants). Recent court rulings and new federal regulation may strengthen the Republican case for increases in IDEA funding. We will have to counter with sustained campaigns for increases in our priority programs.

2. CRIME

We have two major strategic goals on crime over the next few months: (1) an extended, high-profile rollout of our new crime bill to build the case for another 50,000 police beyond the 100,000 mark we'll reach in May; and (2) a continued effort to keep Republicans on the defensive on guns, as the gun industry heightens press interest in the issue.

A. 21st Century Crime Bill. The President's omnibus crime proposal will: add up to an additional 50,000 police on the street; give crime-fighting technologies to state and local law enforcement; provide more drug testing and treatment for offenders under criminal justice supervision; close the loophole on gun shows and extend the Brady waiting period; authorize new measures to combat international, juvenile, and white collar crime; and reauthorize popular anti-crime programs created in the 1994 Crime Act.

I. Legislative Status: We are preparing to introduce the President's omnibus crime legislation immediately after the congressional recess. Although we do not necessarily expect the crime bill to move right away, we want to take the offensive before Republicans

gain any traction in attacking our budget proposals in this area or moving their own juvenile crime legislation.

- a. March: Commerce-Justice State appropriations hearings scheduled for March 9th, 11th and 17th. Also, the Senate Judiciary Committee plans to hold a hearing to criticize our FY 2000 crime budget.
- b. April: The President's proposed legislation should be transmitted to Congress no later than the first week of April.
- c. June-July: Appropriations bills expected to be marked up by the full appropriations committees and sent to House and Senate floor for consideration.

II. Presidential Actions:

- March-April: We should build a drumbeat for the introduction of our crime bill throughout this month with a series of events and press leaks on key components of the bill. We recommend that the President unveil the entire bill in a speech to a police academy class over the Easter recess. Possible events/leaks include:
 - Health Care Fraud: Tougher criminal penalties for obstructing a fraud investigation, and a crackdown on illegal kickback schemes.
 - Telemarketing Fraud: Legislation to give federal law enforcement same power to block telephone service to telemarketing scam artists that we already have for illegal gamblers.
 - Pension Fraud: A new federal crime for defrauding pension or retirement plans, and tougher penalties for embezzlement.
 - Bioterrorism: New penalties for possessing, using or failing to report biological agents and toxins. (The President should announce this to the Firefighters on March 15.)
 - Money Laundering: Treasury is finalizing a national strategy to crack down on money laundering.
 - Gun Trafficking: New legislation to expand gun tracing of used firearms.
 - Police Misconduct: Radio address March 13 outlining a list of proposals to deal with police integrity and racial stereotyping.
- May: During National Police Week (May 10-15), we propose that the President hold an event to commemorate funding of the 100,000th police officer under his COPS initiative. This represents one of the Administration's most important policy milestones. Thousands of police officers will already be in town that week to attend the Fraternal Order of Police's Peace Officers Memorial.
- June-August: Possible events/meetings with Mayors, law enforcement organizations, and other groups holding annual conferences to help build support for the crime bill.

III. Republican Agenda:

- Juvenile crime: Senate Republicans have re-introduced their juvenile crime legislation from last session, and have signaled that they are prepared to take it directly to the floor this spring. If they do, we should be prepared to propose the provisions in our crime bill as an alternative. With more money for police and prosecutors, tough gun provisions, and

increased drug testing and treatment, our bill offers a broader and more popular alternative for Congressional Democrats.

- **Drugs:** Senate Republicans also have proposed the Drug-Free Century Act, which increases spending for drug interdiction and enhances penalties for certain drug offenses. Again, our omnibus crime bill offers a more comprehensive alternative that Democrats should offer if the Senate Republicans bring the Drug-Free Century Act to the floor.

B. Firearms Enforcement. The President's budget contains \$28.8 million in new funds for additional ATF agents and federal prosecutors to enforce our firearms laws. These funds are closely linked to the President's proposal to close the gun show loophole, as well as to a proposed directive on enhanced gun enforcement that we expect the President to sign soon. We are also reviewing other gun legislation, including proposals to limit sales to one gun a month and to subject gun manufacturers to greater scrutiny.

I. Legislative Status: Appropriations hearings on the Treasury enforcement budget began in late February. Commerce-Justice appropriations hearings to fund additional federal prosecutor funding will be held in March. Consideration by the full appropriations committees and the full House and Senate will likely take place between June and July. Related legislation requiring all firearms sales at gun shows to include a background check will be included as part of the President's crime bill to be introduced in late March.

II. Presidential Actions:

- Issue a directive to the Attorney General and Treasury Secretary to strengthen federal firearms enforcement and prosecutions, as is occurring in cities like Philadelphia.
- Closely monitor settlement discussions between communities and the gun industry.

III. Republican Agenda: The firearms enforcement initiative will help us rebut the NRA's criticisms that U.S. Attorneys are not prosecuting enough firearms cases, and will provide us with an alternative to Republican/NRA amendments in the Commerce-Justice-State appropriations bill to simply mandate more federal firearms prosecutions. Unlike other firearms initiatives, this proposal should receive some measure of bipartisan support.

3. HEALTH CARE

A. Patients Bill of Rights.

I. Legislative Status: The best chance to produce a strong bill is in the House; if we succeed in doing that, it will put pressure on the Senate. Congressman Dingell has reintroduced his bill from last year and believes he can attract as many as 210 cosponsors. Congressman Ganske has introduced a modified version of the Dingell bill, which slightly alters the enforcement provision by dropping the punitive damages section. It is unclear whether the best strategy is a normal committee markup or a discharge petition. Right

now, Dingell intends to proceed with markup. The goal is to pass strong bipartisan legislation by the August recess.

II. Presidential Actions:

- Bipartisan event to highlight widespread support for strong, comprehensive legislation.
- Vice President to join Democrats to unveil Dingell Kennedy bill.

III. Republican Agenda: It is unclear how Speaker Hastert will handle this issue. We believe he wants a bipartisan bill, but without a significant enforcement provision. Delay would seem to work to his advantage.

B. Long Term Care.

I. Legislative Status: Senator Daschle introduced the Health Protection and Assistance for Older Americans Act, which includes key aspects of our long term care initiative, including the \$1000 tax credit, the National Family Caregivers Program, and the OPM program. Expanding the list of co-sponsors will be difficult, because Daschle also included our Medicare buy-in (see-below) as part of the legislation. We are considering the question of Democratic sponsorship in the House; Reps. Cardin, Levin, or Stark are options. A hearing is scheduled on the OPM part of our proposal on March 18th, and we can expect additional hearings over the course of the year. We should expect the tax and non-tax provisions of this initiative to move (or not) on different vehicles.

II Presidential Actions:

- **The Vice President will host a series of forums around the country to highlight this issue, which he will continue to do.**
- **Additional events to highlight this proposal as events on the Hill warrant.**

III. Republican Agenda: There is a fair amount of bipartisan support for this legislation. We are trying to determine which Republicans on House committees of jurisdiction are likely supporters, and we will reach out to these members.

C. Jeffords-Kennedy.

I. Legislative Status: **One issue gaining a great deal of bipartisan support, particularly in the Senate, is the Jeffords-Kennedy-Roth-Moynihan Work Incentives Improvement Act. The Senate has already held hearings on this legislation and is planning a March 4 markup. Senator Roth has asked that members refrain from amending the legislation to ensure its swift progress through the committees of jurisdiction.** Although no companion bill has yet been introduced in the House, Reps. Johnson, Lazio, and Waxman may take a leading role in the legislation. We are still looking for sponsors for the tax credit and assistive technology pieces of our disabilities initiative.

II. Presidential Actions:

- Issue statements, hold a bipartisan event with supportive members of Congress, or host another Task Force meeting to highlight this proposal as it moves through Congress.
- Highlight this policy at the White House Conference on Mental Health.

III. Republican Agenda: This is one issue that has a great deal of bipartisan support. We should continue to highlight the issue to ensure that we pass a bill this year.

D. *Ensuring Access to Health Insurance And Health Care Services.* The FY 2000 budget includes a number of policies to increase access to health insurance and health care services for the uninsured, including: \$1 billion over 5 years to fund comprehensive health care delivery systems that traditionally provide services to the uninsured; legislation to enable Americans aged 55 to 65 to buy into Medicare; legislation to encourage small businesses to offer health insurance to their employees through new tax provisions and technical assistance; improving transitional Medicaid for people moving from welfare to work; and budget proposals to enhance children's access to health insurance by restoring Medicaid and CHIP eligibility for legal immigrants affected by welfare reform, extending Medicaid eligibility to foster children up to age 21, and providing states with \$1.2 billion over 5 years for children's health outreach activities.

I. Legislative status:

- HHS will work with the Appropriations Committees to secure funding for the initiative providing funds to communities to develop comprehensive health care delivery systems. We also will include the initiative on the tobacco recoupment menu.
- Senator Daschle included our Medicare buy-in proposals in the Health Protection and Assistance for Older Americans Act, which he introduced at the beginning of this session. This legislation has the support of most Democrats, but we do not expect it to go far this term -- except possibly in the context of broader Medicare reform that raises the eligibility age.
- Although we currently have no sponsors for our proposal to provide tax credits to small business purchasing cooperatives, there is bipartisan interest in this proposal and strong support from the small business community.
- Because of state support for our outreach proposals, we stand a chance of passing some or all of them, though they will be linked to unpopular Medicaid savings.

II. Presidential Actions:

- President, Vice President, and First Lady can amplify our message on the Medicare buy-in, especially given evidence that this problem has gotten worse since last year.
- Issue guidance to States to encourage them to conduct outreach to families leaving the TANF program who are still eligible for Medicaid.
- The other policies can be amplified in the context of coverage issues generally.

III. Republican Agenda:

- This proposal bears some similarity to a number of Republican proposals floated during health care reform. Republicans are generally supportive of this policy, although States may be opposed to any version of this policy that does not give them control of the funds.
- Most Republicans view the Medicare buy-in as a Medicare expansion and strongly oppose it.
- Republicans generally support the tax credit for small businesses. The Republican version of the Patients' Bill of Rights introduced last year in the House included a flawed version of this proposal.
- Republicans are generally supportive of our outreach policies, with the exception of restoring eligibility for benefits to legal immigrants.

E. Public Health. We have requested an increase in funding for a number of these programs, including: \$1.5 billion for Ryan White, a 7 percent increase over 1999 funding levels, and an additional \$50 million to address HIV and AIDS issues in minority communities; \$359 million for Mental Health block grants -- a 24 percent increase over 1999 and the largest increase ever; and \$145 million for health education, prevention, and treatment services for minority populations.

I. Legislative Status: We are working with appropriators to ensure sufficient funding for these programs.

II. Presidential Actions:

- The President, Vice President, or First Lady could highlight the HIV initiative at events and remarks on health care, on their own and in conjunction with the race and health initiative.
- The proposed increase in the mental health block grants could be highlighted at the White House Mental Health Conference this June with the President, First Lady, Vice President and Mrs. Gore. We could also announce the release of Surgeon General's report on Mental Health this fall.
- Given recent news about disparities, highlight the need for the Race and Health initiative through reports, grants, and other administrative actions.

III. Republican Agenda:

- Republicans tend to be supportive of Ryan White. It is unclear, however, whether they will support the CBC efforts.
- Last year, Congress put in more dollars in mental health than we proposed. If we can include the Republicans in our Conference and our other efforts, they may well support our proposed increase.

- The Republicans were not particularly responsive to the Race and Health initiative last year and wanted all of the increases to go into Community Health Centers. We will need to work closely with the groups to assure funding for this initiative.

F. Biotechnology.

Genetic Discrimination. Legislation to prevent health insurers and employers from discriminating on the basis of genetic information.

I. Legislative Status: **Senator Daschle, together with Senator Kennedy, is introducing a bill next week. There is some bipartisan interest on the issue, mostly on the health insurance side (see below).**

II. Presidential Actions:

- Issue an executive order prohibiting discrimination against employees based on genetic information.

III. Republican Agenda: **The Republicans have proposed legislation addressing genetic discrimination for health insurance in their Patients' Bill of Rights legislation. It is possible that we can continue to work with them in this process.**

Privacy of Medical Records. Legislation or executive action to provide privacy protections for medical records.

I. Legislative Status: **It is important to note that DOJ and HHS have a continuing disagreement about law enforcement's access to medical records. This issue is extremely controversial and will probably attract attention as privacy legislation moves forward.**

II. Presidential Actions:

- **Hold bipartisan event to highlight the need for Congress to pass strong privacy legislation and the ability of HIPAA to establish privacy protections for electronic medical records if Congress fails to do so.**
- **Assuming Congress does not pass legislation by this fall, take executive action on electronic medical records.**

III. Republican agenda: **Some Republicans have made efforts to pass privacy legislation, but to date these proposals have been unacceptable. In fact, the Republicans last year included privacy provisions in their patients' bill of rights that undermined current state laws protections. The Republicans may want to work in a more bipartisan manner this year, but the odds are against legislation.**

Medicare Cancer Clinical Trials. A budget request for \$750 million over four years to give more Americans access to cutting-edge cancer treatments.

I. Legislative Status: **Senators Rockefeller and Mack are planning to introduce their bill quite soon. It is most likely to move in the context of broader Medicare reform.**

II. Presidential Actions:

• **Highlight this effort in the context of broader cancer events, such as breast cancer awareness month.**

III. Republican Agenda: **This proposal has bipartisan support. However, it is unclear if it will move in this Congress.**

ADDITIONAL PRIORITIES

1. CHILDREN AND FAMILIES

A. The President's Child Care Initiative. Expansion of Child Care and Development Block Grants and creation of Early Learning Fund; new stay-at-home tax relief and expanded child care tax relief; new business tax credit; and after-school program expansion.

I. Legislative Status: Ranking Subcommittee Democrat Ben Cardin plans to introduce the parts of the Administration's child care initiative that falls within the jurisdiction of the Ways and Means Committee next week, in time for a hearing the week after. Senator Dodd has introduced a similar (though more expensive) bill in the Senate as one of the top Democratic Leadership bills. Increased funding for after-school programs will be addressed in appropriations.

II. Presidential Actions:

- Announcement of child care block grant state spending numbers.
- Announcement of after-school grants in late Spring.

III. Republican Agenda: Rep. Nancy Johnson (R-CT), chair of the Ways and Means Subcommittee on Human Resources, is likely to introduce her child care tax relief bill from last year, which includes expansion of the CDCTC and stay-at-home tax relief (which received broad support from moderate Republicans last year). Chafee may reintroduce his bill combining subsidy expansion (through the Block Grant) with child care and stay-at-home tax relief.

B. Support for Young People who "Emancipate" from Foster Care. The President's budget includes \$280 million over five years to: provide Medicaid coverage, enhance the Independent Living Program, provide new time-limited financial support, and increase the Transitional Living Program.

I. Legislative Status: Ranking Subcommittee Democrat Ben Cardin has introduced legislation incorporating our proposal. The Subcommittee will hold a hearing next week. Senator Rockefeller may introduce our bill soon and is looking for a Republican co-sponsor.

II. Presidential Actions:

- First Lady may hold events in the Spring.

III. Republican Agenda: Some Republicans have indicated an interest in pursuing a child welfare block grant, which the Administration opposes. Other Republicans, however, have expressed interest in our proposal.

2. TOBACCO

Raise the price of cigarettes and other tobacco products; re-affirm full FDA authority to regulate tobacco products; support public health efforts to prevent youth smoking; protect farmers and farming communities; and work with states and Congress to enact tobacco legislation to settle Federal Medicaid claims.

I. Legislative Status: Bipartisan legislation (Hutchison and 36 cosponsors) has been added to the supplemental to prevent the federal government from recouping the federal share of the tobacco settlement. The President has made clear that we oppose this legislation because it gives up the federal share of the states' tobacco settlement without any commitment by the states to use the funds to prevent youth smoking, protect tobacco farmers, improve public health, or assist children. We are working with Senator Daschle to foster an alternative to the Hutchison/Bliley legislation that would waive federal claims in exchange for a commitment by the states to use the federal share for specified purposes. We do not expect to be able to attach our proposed 55 cents-per-pack cigarette tax, nor do we believe there is a significant prospect of passing this tax as part of another vehicle.

II. Presidential Actions:

- To reinforce the importance of FDA's authority over tobacco products, release new data on the results of retailer "stings" targeted at reducing youth tobacco access.
- On April 14, Kick Butts Day.
- Work with the Justice Department to leak developments in preparing federal litigation to recover federal health costs.

III. Republican Agenda: Congressional Republicans are generally supportive of the Hutchison/Bliley bills, but some are concerned that these bills set a bad precedent for the Medicaid program.

3. WELFARE REFORM

A. Reauthorize Welfare-to-Work Program and Related Budget Initiatives. Legislation to reauthorize the Welfare-to-Work program in FY 2000 and appropriations requests to double funding for Access to Jobs transportation grants, provide a 50 percent increase in welfare-to-work housing vouchers, and extend employer tax credits for hiring welfare recipients and other disadvantaged individuals.

I. Legislative Status:

- Welfare-to-Work reauthorization -- Rep. Cardin has expressed interest in introducing legislation. Senate sponsors are still being determined, as is the possibility of bipartisan support. The House Ways and Means Committee plans to hold hearings on welfare reform in March and April. The major challenge on the Hill is justifying additional Welfare to Work funding when states have significant unobligated TANF reserves.
- Access to Jobs -- Secretary Slater will testify on the DOT budget March 4th and 17th.
- Housing Vouchers -- Secretary Cuomo will testify on the HUD budget March 10th/11th and again in April. Senator Mikulski is key and needs convincing on this issue; House support needs to be developed.

II. Presidential Actions:

- Release final TANF rule in April.
- Demonstrate support for the Welfare-to-Work initiatives while also fighting to maintain funding for the TANF block grants in speeches dealing with welfare reform.
- Release \$75 million in FY 99 Access to Jobs grants in mid-March.
- Participate in Fathers Day event focusing on responsible fathers, highlighting a local program that is using current WtW funds to help low income non-custodial fathers and building support for our FY 2000 initiative. We could probably identify some new research findings to announce.
- The Welfare to Work Partnership has a major convention scheduled for August 2-4 in Chicago which will bring together several thousand businesses and service providers. If caseload reductions continue at current pace, we should be able to announce that the President has cut welfare rolls in half since he took office.
- In mid to late summer, the Administration will award \$200 million in bonus funds to states that have done the best job placing welfare recipients in jobs and ensuring they succeed in those jobs.

III. Republican Agenda:

- With the exception of the Fathers initiative within Welfare-to-Work, Republicans have not expressed support for Welfare-to-Work reauthorization to date. Some Republicans continue to look at the TANF reserves as a potential funding source for other priorities. Last session, Rep. Shaw introduced 'Fathers Count' block grant legislation. While there continues to be interest among Republicans on this issue, it is not yet clear whether Rep. Johnson will introduce similar legislation now that she has assumed leadership of the Human Resources Subcommittee.

B. Restoring Benefits to Legal Immigrants. Proposal to restore additional SSI, Medicaid, and Food Stamp benefits to vulnerable categories of legal immigrants, at a cost of \$1.3 billion over five years.

I. Legislative Status: Legislation similar to the Administration's may be introduced by Sen. Moynihan and Rep. Levin. No hearings pertaining to this issue are scheduled. In the House,

the Agriculture, Commerce and Ways and Means Committees will have jurisdiction. In the Senate both the Finance and Agriculture Committees have jurisdiction.

II. Presidential Actions:

- The importance of this initiative can be mentioned in speeches concerning: welfare, legal immigration, nutritional assistance programs, kids' health care, and disability assistance, particularly in states with large immigrant populations.

III. Republican Agenda: The tide has turned on anti-immigrant sentiment and the usual strong opposition from Republicans on this issue seems to have been replaced by muted restraint. They are unlikely to openly oppose the package for fear of offending Latinos and other minorities, but they should not be expected to actively support it either.

4. CIVIL RIGHTS

A. Hate Crimes Legislation. Legislation to strengthen the ability of the Justice Department to prosecute hate crimes based on race and religion by removing needless jurisdictional requirements and giving the Department the power to prosecute hate crimes committed because of the victim's sexual orientation, gender, or disability.

I. Legislative Status: Senators Kennedy and Specter will reintroduce the bill this month.

II. Presidential Actions:

- A scheduling request has been submitted for the President to host a White House event with the bipartisan Senate and House co-sponsors of the bill, on the occasion of its re-introduction in Congress. MTV is prepared to release a poll on the day of the event relating to youth and hate crimes.

III. Republican Agenda: There has been some Republican criticism that including women as a category in the bill would lead to federal intervention in all assaults against women. Senator Hatch has indicated he will not support the bill at the present time. Senators Specter and Gordon Smith have already signed on, and Senators Chafee and Jeffords may decide to do so.

B. Equal Pay. We have supported Senator Daschle's Paycheck Fairness Act, which would increase remedies available for women under the Equal Pay Act. We are also in the process of analyzing whether we could support (1) a strengthened version of the Daschle bill requiring greater disclosure of wage information by employers and (2) legislation sponsored by Senator Harkin on comparable worth.

I. Legislative Status: **Senator Daschle's bill has 20 Democratic cosponsors, and Congresswoman DeLauro's equivalent bill, H. R. 541, has 34. Senator Harkin's comparable worth bill had eight cosponsors in the last Congress, while the House version garnered 64 cosponsors.**

II. Presidential Actions:

- A scheduling request is pending for the President to hold a roundtable event on fair pay on April 7.

III. Republican Agenda: Republicans probably will continue to oppose Senator Daschle's bill. If we support Senator Harkin's comparable worth bill, it might become a high-profile target for Republican attacks.

5. COMMUNITY EMPOWERMENT

A. **Low-Income Housing Tax Credit (LIHTC).** Legislation to increase the cap on the LIHTC by 40 percent to create an additional 150,000-180,000 new rental housing units for low-income American families over the next five years.

I. Legislative Status: Last year, over two-thirds of House and Senate members were co-sponsors on bills to raise the cap on the LIHTC -- more support than on any other tax legislation.

II. Possible Presidential Actions:

- Bipartisan event after we reach a certain number of cosponsors.

III. Republican Agenda: Finance Chairman Roth's staff have privately indicated that LIHTC will pass if there is a tax bill this year.

6. FOOD SAFETY

A. *Congressional Action on Food Safety:*

Our major objective over the next several months will be to re-affirm the Administration's position as the leader in the fight for better regulation of food and place opponents in the spotlight for being against needed measures. We intend to highlight our pro-consumer position by supporting our food safety budget initiative, and pushing two legislative measures which will increase USDA's authority to regulate unsafe food production and provide better oversight of imported food.

I. Legislative Status: **The food safety budget will be the subject of congressional hearings beginning in mid-March. The SAFER Meat and Poultry Act, which gives USDA the ability to recall products and impose civil fines, is included in the Senate Democratic Leadership package. Senator Harkin has the lead. Our bill to give FDA greater authority to halt food imports from countries that do not have adequate food safety inspection systems has been the subject of interest to Senator Collins, a key Committee chair. She has told the FDA that she would**

push for a compromise bill if the Administration agreed to support it. We have not responded to her. If we agree, the bill could well pass. If we do not, the bill is unlikely to leave committee.

II. Presidential Actions:

- We are exploring events with new technologies in the food safety area that highlight the need for investments in prevention and surveillance. In addition, the July 4th radio address is an excellent opportunity to urge passage of our budget request and food safety legislation.

III. Republican Agenda: Republicans in the past have opposed new spending in this area and our legislation to give agencies greater authority. Last year we were able to obtain most of our requested initiative funding following a Senate floor battle. We will likely have a similar dispute this year. On the imported food legislation, Senator Collins has held hearings on the problem and will likely continue to work on the issue seeking a bipartisan compromise. Republicans have indicated that under the Administration bill they are worried that farmers in the U.S. will be faced with new regulations.

7. POLITICAL REFORM

A. Bipartisan Campaign Finance Reform. The McCain-Feingold and Shays-Meehan legislation would ban soft money and increase disclosure of independent expenditures.

I. Legislative Status: Shays-Meehan passed the House last year and should be able to muster a majority again this year. The Senate sponsors are taking a House-first approach.

II. Presidential Actions:

- Invite sponsors to the White House.

III. Republican Agenda: The Republican Leadership strongly opposes this legislation. Speaker Hastert has placed this bill on the back burner. Getting the bill to the floor may require another successful discharge petition.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sandra Yamin (CN=Sandra Yamin/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME: 5-MAR-1999 11:39:33.00

SUBJECT: IDEA/Medicaid Meeting

TO: David M. Berry (CN=David M. Berry/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

TO: Daniel N. Mendelson (CN=Daniel N. Mendelson/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

CC: Sarah A. Bianchi (CN=Sarah A. Bianchi/O=OVP@OVP [UNKNOWN])
READ:UNKNOWN

CC: Anne E. Tumlinson (CN=Anne E. Tumlinson/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

CC: Teresa M. Jones (CN=Teresa M. Jones/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

CC: Devorah R. Adler (CN=Devorah R. Adler/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

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

CC: Leslie S. Mustain (CN=Leslie S. Mustain/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

CC: Mark E. Miller (CN=Mark E. Miller/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

TEXT:

Today's 3:30PM IDEA/Medicaid meeting will take place in OEOB 248.

Attendees:

Barbara Chow, OMB
Dan Mendelson, OMB
Elena Kagan, DPC

Chris Jennings, DPC
 Judy Heumann, ED
 Curtis Richards, ED
 Suzanne Sheridan, ED
 Constance Garner, ED
 Robert Williams, HHS
 David Cade, HCFA
 Kathy King, HCFA (by conference call)

----- Forwarded by Sandra Yamin/OMB/EOP on 03/05/99 11:23 AM -----

Sandra Yamin
 03/04/99 05:29:46 PM
 Record Type: Record

To: Daniel N. Mendelson/OMB/EOP@EOP, Elena Kagan/OPD/EOP@EOP, Christopher C. Jennings/OPD/EOP@EOP
 cc: See the distribution list at the bottom of this message
 Subject: IDEA/Medicaid Meeting

Due to popular demand, this meeting has been rescheduled for Friday, Mar 5 at 3:30PM in Barbara Chow's office (Rm 260).

----- Forwarded by Sandra Yamin/OMB/EOP on 03/04/99 06:24 PM -----

Sandra Yamin
 03/04/99 05:02:16 PM
 Record Type: Record

To: Daniel N. Mendelson/OMB/EOP@EOP, Elena Kagan/OPD/EOP@EOP, Christopher C. Jennings/OPD/EOP@EOP
 cc: See the distribution list at the bottom of this message
 Subject: IDEA/Medicaid Meeting

There will be an IDEA/Medicaid meeting on Friday, March 5th at 3:00PM in Barbara Chow's office (OEOB 260). Department of Education and HCFA folks have been invited. I will forward to you a complete list of attendees before the meeting. Please let me know if plan to attend. Thank you.

Message Copied

To:

Gina C. Mofers/OMB/EOP@EOP
 Teresa M. Jones/OPD/EOP@EOP
 Laura Emmett/WHO/EOP@EOP
 Barry White/OMB/EOP@EOP
 Mark E. Miller/OMB/EOP@EOP
 David Rowe/OMB/EOP@EOP
 Leslie S. Hustain/OMB/EOP@EOP
 Anne E. Tumlinson/OMB/EOP@EOP
 Barbara Chow/OMB/EOP@EOP

Message Canceled

To: _____

Gina C. Meyers/OMB/EOP@EOP

Teresa M. Jones/OPD/EOP@EOP

Laura Emmett/WHO/EOP@EOP

Barry White/OMB/EOP@EOP

Mark E. Miller/OMB/EOP@EOP

David Rowe/OMB/EOP@EOP

Leslie S. Mustain/OMB/EOP@EOP

Anne E. Turbinson/OMB/EOP@EOP

Barbara Ch.../OMB/EOP@EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jordan Tamagni (CN=Jordan Tamagni/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 5-MAR-1999 11:44:56.00

SUBJECT: revised radio

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

READ:UNKNOWN

TEXT:

Revised Draft 3/5/99 11:45am

Tamagni

PRESIDENT WILLIAM J. CLINTON
RADIO ADDRESS ON CLASS SIZE INITIATIVE
THE WHITE HOUSE
March 6, 1999

Good morning. This week, we learned the good news that our efforts to raise academic standards for our children are beginning to pay off. The National Assessment of Education Progress, or NAEP, state test scores released on Thursday show that our children's reading scores have risen, with some of the greatest gains in states that once scored below the national average. Today, I want to talk to you about what I believe we must do to build on our progress, by putting more teachers in the classroom and reducing class size in schools around the country.

We all agree that to build a stronger nation, we must build up our nation's public schools. I have proposed a comprehensive education agenda to strengthen and improve our public schools, with more accountability, higher standards, more well-trained teachers -- and smaller classes.

As any parent, teacher, or school principal can tell you, smaller classes make a huge difference in our children's lives. Studies show that teachers in smaller classes spend less time on discipline and more time teaching; students spend less time competing for attention and more time learning. Student in smaller classes outperform their peers. For children in struggling communities -- from remote rural areas to inner city neighborhoods -- smaller class size is even more critical. And with school enrollments at record highs and expected to keep rising, we must act now to reduce class size in all our nation's public schools.

Across the country, more and more communities are recognizing the importance of smaller class size and trying to do something about it. To help them meet this challenge, I called on Congress early last year to pass my initiative to reduce class size by helping school districts hire 100,000 highly trained teachers. I am pleased that Republican members of Congress did the right thing and joined us in making a big downpayment toward meeting our goal.

Today, the Department of Education is releasing guidelines that will let every school district in the country know how much money it will receive and how best to use those funds to reduce class size in time for school in the Fall. But communities deciding now whether to hire and train new teachers for next year need to know whether they can count on

the commitment Congress made to help them reduce class size for years to come. We cannot leave them in doubt and leave our children without the smaller classes they need to reach their highest potential. It is time to finish the job.

This week, the Senate will vote on a bill that gives states the flexibility they need to improve their schools. I support this bill, and I strongly support Senators Murray and Kennedy's efforts to add an amendment to it that will fully fund 100,000 well trained teachers over the next six years. But Republican leaders are trying to shut down debate on the Ed-Flex bill before this important amendment can be voted on by the Senate.

Last October, Republicans joined us in promising the American people more teachers and smaller classes. Now, just four months later, Republican leaders in the Senate won't even allow a vote to reduce class size. This is the first big test of whether this Congress is willing to work together to get things done, and whether this Congress is serious about giving our children the education they need and deserve.

The choice is simple: Are we going to give Americans smaller classes, or more partisanship? Are we going to put politics ahead of progress or put 100,000 teachers in our nation's classrooms? I call on the Senate to allow an up-or-down vote on the Murray-Kennedy class size amendment, and I urge every Senator to vote for it. Because when it comes to our children's future, politics must stop at the school house door.

Thanks for listening.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Constance J. Bowers (CN=Constance J. Bowers/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME: 5-MAR-1999 11:45:11.00

SUBJECT: LRM CJB 19 = Statement of Administration Policy on HR800 Education Flexibi

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

TO: Pamula L. Simms (CN=Pamula L. Simms/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

TO: Daniel I. Werfel (CN=Daniel I. Werfel/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

TO: Tanya E. Martin (CN=Tanya E. Martin/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

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

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

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

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

TO: William H. White Jr. (CN=William H. White Jr./OU=WHO/O=EOP@EOP [WHO])
READ:UNKNOWN

TO: Kate P. Donovan (CN=Kate P. Donovan/OU=OMB/O=EOP@EOP [OMB])
READ:UNKNOWN

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

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

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

TO: Jonathan H. Schnur (CN=Jonathan H. Schnur/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

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

Constance J. Bowers (CN=Constance J. Bowers/OU=OMB/O=EOP [OMB])

READ:UNKNOWN

Nancy J. Duykers (CN=Nancy J. Duykers/OU=OMB/O=EOP [OMB])

READ:UNKNOWN

TEXT:

HR 800 is scheduled to be considered by the House next week. Please comment on the draft SAP below by: cob, today, Friday, March 5th.

----- Forwarded by Constance J. Bowers/OMB/EOP on
03/05/99 11:36 AM -----
Total Pages: _____

LRM ID: CJB19
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, March 5, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

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

OMB CONTACT: Constance J. Bowers
PHONE: (202)395-3803 FAX: (202)395-6148

SUBJECT: Statement of Administration Policy on HR800 Education Flexibility Partnership Act of 1999

DEADLINE: COB Friday, March 5, 1999

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

COMMENTS:
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Howard Dendurent
Janet R. Forsgren
James J. Jukes

LRM ID: CJB19 SUBJECT: Statement of Administration Policy on HR800
Education Flexibility Partnership Act of 1999

RESPONSE TO
LEGISLATIVE REFERRAL
MEMORANDUM

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

You may also respond by:

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

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

TO: Constance J. Bowers Phone: 395-3803 Fax: 395-6148
Office of Management and Budget
Branch-Wide Line (to reach legislative assistant): 395-7362

FROM: _____ (Date)
 _____ (Name)
 _____ (Agency)
 _____ (Telephone)

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

- _____ Concur
- _____ No Objection
- _____ No Comment
- _____ See proposed edits on pages _____
- _____ Other: _____

_____ FAX RETURN of _____ pages, attached to this response sheet=====

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

TEXT:
Unable to convert ARMS_EXT:[ATTACH.D53]MAIL496113869.036 to ASCII,
The following is a HEX DUMP:

DRAFT

DRAFT

DRAFT

March , 1999
(House)

H.R. 800 - Education Flexibility Partnership Act of 1999
(Rep.Castle (R) DE and 59 cosponsors)

The Administration supports House passage of H.R. 800, which would expand the “Ed-Flex” demonstration authority to permit all States to waive certain statutory and regulatory requirements of Federal education programs. The Administration has long supported the concept of expanding ed-flex demonstration authority in a manner that will promote high standards and accountability for results, coupled with increased flexibility for States and local school districts to achieve those results.

[Do we need to add another sentence supporting amendments to provide further accountability or enhance parental involvement, as on the Senate position??]

The Administration strongly supports an amendment [that is expected to be offered (?)] to H.R. 800 that would implement the President's proposal for a long-term extension of the one-year authority to help school districts reduce class size in the early grades, which the Congress approved last year on a bipartisan basis. In order to hire qualified teachers, arrange for additional classrooms, and take other steps that are necessary to reduce class size, school districts need to know, as soon as possible, that the Congress intends to support this initiative for more than one year.

Automated Records Management System
Hex-Dump Conversion

* * * * *

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 5-MAR-1999 11:52:13.00

SUBJECT: Grijalva revisited

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

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

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

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

TEXT:

You will recall that last month, after a bit of discussion, the SG filed a petition for cert in Grijalva, seeking review of a Ninth Circuit decision finding that Medicare HMOs are state actors subject to the Due Process Clause when they deny coverage to beneficiaries, and asking the Court to hold the petition pending its decision in Sullivan, an already-argued case involving similar issues as to the Pennsylvania workers compensation law. The SG urged that if the Court found no state action in Sullivan, it should grant the Grijalva petition, vacate the injunction, and remand the case to the District Court to reconsider in light of the Sullivan decision.

As you may have heard, the Supreme Court on Wednesday decided Sullivan, holding that the private insurers' action in denying payments to workers whose claims they rejected, pending appeal, was NOT state action, despite the fact that they are administering a state-authorized program and the state had changed the statute to permit the insurers to hold off payment during the appeals process. The Court went on to reach the merits of the due process claim anyway, as to the State of Pa defendants, holding that the state statutory scheme permitting the suspension of payments during the appeal process did not violate due process.

I assume that the plaintiffs in Grijalva, whose opposition to our petition for cert is due next week, will try to distinguish Sullivan, e.g., on the ground that in Medicare the HMOs are operating with Govt money, but it seems likely that the Court will grant, vacate and remand as we requested.

The Court's reaching of the due process issue in Sullivan as to the state defendants serves as a useful reminder that even if Medicare (or Medicaid) HMOs are not state actors subject to constitutional constraints themselves, beneficiaries can still sue the Federal or State agencies for a judgment that the statutory or regulatory schemes permitting the HMOs to deny them rights are unconstitutional.

Let me know if you want a copy of the Sullivan opinion.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jordan Tamagni (CN=Jordan Tamagni/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 5-MAR-1999 11:53:57.00

SUBJECT: 12:00pm Draft

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

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

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

TEXT:

[Bruce/Elena -- I am still unsure about adding the language about the election -- see section marked in bold below; what do you think?]

Revised Draft 3/5/99 12:00pm
Tamagni

PRESIDENT WILLIAM J. CLINTON
RADIO ADDRESS ON CLASS SIZE INITIATIVE
THE WHITE HOUSE
March 6, 1999

Good morning. This week, we learned the good news that our efforts to raise academic standards for our children are beginning to pay off. The National Assessment of Education Progress, or NAEP, state test scores released on Thursday show that our children's reading scores have risen, with some of the greatest gains in states that once scored below the national average. Today, I want to talk to you about what I believe we must do to build on our progress, by putting more teachers in the classroom and reducing class size in schools around the country.

We all agree that to build a stronger nation, we must build up our nation's public schools. I have proposed a comprehensive education agenda to strengthen and improve our public schools, with more accountability, higher standards, more well-trained teachers -- and smaller classes.

As any parent, teacher, or school principal can tell you, smaller classes make a huge difference in our children's lives. Studies show that teachers in smaller classes spend less time on discipline and more time teaching; students spend less time competing for attention and more time learning. Students in smaller classes outperform their peers. For children in struggling communities -- from remote rural areas to inner city neighborhoods -- smaller class size is even more critical. And with school enrollments at record highs and expected to keep rising, we must act now to reduce class size in all our nation's public schools.

Across the country, more and more communities are recognizing the importance of smaller class size and trying to do something about it. To help them meet this challenge, I called on Congress early last year to pass my initiative to reduce class size by helping school districts hire

100,000 highly trained teachers. I am pleased that Republican members of Congress did the right thing and joined us in making a big downpayment toward meeting our goal.

Today, the Department of Education is releasing guidelines that will let every school district in the country know how much money it will receive and how best to use those funds to reduce class size in time for school in the Fall. But communities deciding now whether to hire and train new teachers for next year need to know whether they can count on the commitment Congress made to help them reduce class size for years to come. It is time to finish the job.

This week, the Senate will vote on a bill that gives states the flexibility they need to improve their public schools. I support this bill, and I strongly support Senators Murray and Kennedy's efforts to add an amendment to it that will fully fund 100,000 well trained teachers over the next six years. But Republican leaders are trying to shut down debate on the Ed-Flex bill before this important amendment can be voted on by the Senate.

Last October, just before the election, Republicans joined us in promising the American people more teachers and smaller classes. Now, less than five months later, Republican leaders in the Senate won't even allow a vote to reduce class size. This is the first big test of whether this Congress is willing to work together to get things done, and whether this Congress is serious about giving our children the education they need and deserve.

The choice is simple: Are we going to give Americans smaller classes, or more partisanship? Are we going to put politics ahead of progress or put 100,000 teachers in our nation's classrooms? I call on the Senate to allow an up-or-down vote on the Murray-Kennedy class size amendment, and I urge every Senator to vote for it. Because when it comes to our children's future, politics must stop at the school house door.

Thanks for listening.

March 6, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

Tobacco: Medicaid Recoupment: Despite efforts by Senators Harkin, Durbin, and Specter, on Thursday the Senate Appropriations Committee added to the supplemental appropriations bill the Hutchison bill which lets states keep all tobacco settlement funds without any commitment to use the federal share to prevent youth smoking, protect tobacco farmers, promote public health, or assist children. Before the markup, the Chairman of the Finance Committee, Senator Roth, sent a letter to Senator Stevens saying Appropriations Committee action on the Hutchison bill would "bypass the jurisdiction of the Finance Committee" and that the bill "has enormous ramifications for the Medicaid program and should be thoughtfully considered through the committee process." He noted the amendment was not paid for and urged the committee, if it was compelled to act, to prevent recoupment only in 1999 or 2000 to give the Finance Committee time to act. The Hutchison bill now has 40 co-sponsors, including 9 Democrats (many of whom say they would be willing to accept an alternative along the lines we've proposed). While we continue to urge the Congress to adopt a measure which ensures the federal share is used to promote public health, assist children and protect farmers, we recommend we issue a veto threat to underscore our opposition to the Hutchison measure.

Tobacco -- New Evidence Confirms Higher Taxes Reduce Smoking: Two new studies show cigarette sales declined sharply in Alaska and Oregon after the states instituted higher tobacco taxes. In October 1997, Alaska tripled its tax from \$.29 to \$1.00 a pack, raising the retail price of cigarettes by 39 percent to \$3.14 a pack. The next year, tobacco sales declined 17 percent from 1995 and 1996 levels and average monthly tobacco tax collections increased from \$1.5 to \$4.3 million per month. Moreover, the state found no evidence of increased smuggling or crime.

Oregon raised its tax by \$.30 per pack in February 1997, increasing cigarette prices by 16 percent, and devoted 10 percent of the proceeds for tobacco-use prevention programs. Tobacco sales in 1997 and 1998 fell 11.3 percent compared to 1993-1996 levels. The analysis by the Centers for Disease Control and the Oregon Health Division, found that this comprehensive approach of a price increase plus prevention programs had a much bigger effect than a price increase alone. Most studies of price increases have found that every 10 percent increase in price will reduce overall smoking by about 4 percent (the effect is higher for youth -- about 7 percent) -- essentially the effects found in Alaska. According to this

model, a 16 percent price increase in Oregon should have resulted in a 6.3 percent decrease in consumption, not the 11.3 actually achieved. The CDC attributes the higher smoking reduction rates to the state's \$8.5 million a year tobacco use prevention program which funded community-based tobacco-use prevention coalitions in every county, a statewide public awareness and education campaign, comprehensive school-based programs, tribal tobacco-use prevention programs, multicultural outreach and education, a quitters' help line providing smoking cessation support, and projects evaluating new approaches to prevent or reduce tobacco use. Nearly all (93 percent) of the program's funds were awarded in grants or contracts outside state government (e.g., county health departments, community-based agencies, tribal governments, private sector agencies implementing public awareness campaign). These findings bolster the rationale for ensuring that states use at least part of their settlement on tobacco use prevention.

Health Care -- Release of new regulation to promote the safe and effective use of over-the-counter drug products: Next Wednesday, the White House will unveil a new FDA regulation requiring over the counter drug products to use a standardized format with larger print that makes it easier for consumers to understand product warnings and comply with dosage guidance. The Vice President will join Secretary Shalala and FDA Commissioner Henney in announcing that the regulation has been put on display. This action will be widely heralded by consumer representatives, physician and other provider groups, and even by product manufacturers. Studies indicate that parents often have difficulty determining the correct dosage of over-the-counter medications, and that many of the elderly, who take significantly more over-the-counter drugs than the rest of the population, have difficulty reading the small type on the product labels. This new regulation represents a critical first step towards preventing the thousands of unnecessary hospitalizations caused by misuse of over the counter medications each year.

Health Care -- Signing of Executive Order on Genetic Discrimination: Next week, you are tentatively scheduled to sign a new executive order directing Federal agencies to take all necessary action to guard against employment discrimination in Federal hiring practices through the inappropriate use of genetic information. The prohibition against using genetic information to inappropriately deny individuals access to health insurance coverage for Federal employees and many (but not all) of the insured population was effectively applied when you signed Kennedy-Kassenbaum into law in 1996. We currently plan to unveil your EO in an event with the Vice President and a bipartisan group of Members of Congress who are supporting Federal legislation to apply these protections to all employers and insurers.

Crime -- Directive on Firearms Enforcement: We are preparing a directive for you to sign that will ask Secretary Rubin and Attorney General Reno to work with the U.S. Attorneys and ATF Special Agents in Charge to develop a national strategy to strengthen the enforcement and prosecution of federal firearms laws. As you know, the NRA has repeatedly

called for the widespread replication of Project Exile in Richmond, VA, where the U.S. Attorney generally prosecutes all firearms offenses in federal court. Your proposed directive will be broader in scope. It will call for: the timely prosecution of gun criminals at the federal and state level; increased efforts to trace crime guns, identify illegal gun markets, and determine gun "hot spots"; coordinated law enforcement efforts to ensure that gun dealers comply with all applicable city, state and federal laws; and more. This directive could be released in conjunction with a new Justice Department report, *Promising Strategies to Reduce Gun Violence*, which details more than 50 examples of local strategies and partnerships that are reducing gun violence across the country. These include: comprehensive violence reduction programs that focus on guns; gun deterring illegal gun possession through consent searches and the aggressive seizure of firearms; targeted enforcement in gun "hot spots"; increased surveillance of probationers; school-based prevention programs; focused and vertical prosecution strategies; and special youth gun courts.

Crime -- Upcoming Announcements/Hearings: Next Thursday, Deputy Attorney General Holder plans to use his morning press availability to highlight the community prosecutors portion of your proposed 21st Century crime bill. As you know, your FY 2000 budget and proposed crime bill will include \$1 billion over the next 5 years to hire and train community prosecutors. As the former U.S. Attorney for DC, Holder helped to launch one of the first successful community prosecution programs, and he is personally committed to building public and congressional support for this initiative. On a related note, in testimony before the House Committee on Government Reform this past Wednesday, Mayor Giuliani of New York expressed support for community prosecution programs.

Welfare Reform -- Supplemental Proposes Cutting TANF Block Grant: The Senate Appropriations committee has proposed paying for emergency supplemental spending in part by cutting \$350 million in TANF block grant funding in FY 1999. While the bill would restore the cut in later years, we believe this provision establishes a dangerous precedent of raiding TANF to pay for other measures and we should vigorously oppose it. Cuts in TANF will undermine states' ability to reserve funds for a rainy day and assist families during an economic downturn. Moreover, cuts in TANF may prevent states from investing in helping more families move from welfare to work, just as work requirements increase and those remaining on the rolls face greater challenges to employment. Finally cuts in TANF may interfere with innovative efforts to help those former recipients who have joined the workforce succeed in the workplace and advance in their careers. The governors are strongly opposing these cuts, saying they break the commitment made by the Congressional leadership in 1996 to a guaranteed five years of full block grant funding.

State data compiled by HHS (but not yet released) show that in FY 1998 states spent or obligated 84% of the \$16.5 billion TANF block grant, leaving \$2.7 billion or 16% unobligated. There is considerable state variation -- 19 states have obligated all of their FY 98 funds, but 12 states account for three-quarters of the unobligated balances. We will provide you with more complete report on these trends in a separate memo.

Immigrant Benefits -- Declining Participation: The Urban Institute will issue a report on Monday showing evidence of a "chilling effect" that has resulted in fewer immigrant families, compared to citizen families, accessing an array of public benefits. The study found receipt of cash benefits (AFDC/TANF, SSI, and state-funded general assistance) by noncitizens declined by 35 percent from 1994 to 1997 while use by citizens declined 15 percent. Use of Medicaid and Food Stamps declined 22 and 30 percent respectively among noncitizens, but only 7 and 21 percent among citizens.

The report concludes that these effects are due primarily to the "chilling effect" of the welfare reform debate, since most legal immigrants were actually still eligible for benefits in 1997. (While new immigrants arriving after August 1996 were ineligible, the vast majority of legal immigrants in the U.S. in 1997 had arrived prior to that date and due to a one year delay in implementation were eligible for Food Stamps for most of the year and for SSI all year (since SSI benefits were restored in August 1997). Moreover, all but one or two states opted to provide TANF and Medicaid to legal immigrants who arrived before August 1996.) Despite the fact that most legal immigrants were eligible for most benefits in 1997, the publicity surrounding the debate over welfare and immigration reform may have led many immigrants to think they were ineligible or that accepting benefits would affect their immigration status. As you know we have been working closely with the Department of Justice and HHS on these issues, and we expect the INS will issue guidance in the near future to provide clarity on what type of benefits an immigrant can accept without being labeled a "public charge." Clearer guidance on public charge policies, along with our proposals to restore additional health, nutrition, and disability benefits to vulnerable legal immigrants, will allow us to begin sending clearer messages to immigrant families regarding their eligibility for benefits.

Note to Bruce and Elena: You asked how it was true that most legal immigrants were still eligible for benefits in 1997. Here's how:

Immigrants who arrived before 8/22/96 -- the vast majority of immigrants in U.S. in 1997

SSI and Food Stamps: The welfare law gave the agencies a year to conduct redeterminations for SSI and Food Stamps for immigrants in the U.S. as of August 22, 1996. SSA and USDA conducted the redeterminations, but delayed notifying immigrants of their ineligibility for as long as possible. SSI benefits were restored August 5, 1997. Food Stamps were not, but immigrants were eligible for most of 1997.

Medicaid and TANF: the law gave states the option of providing TANF and Medicaid to immigrants who arrived pre 8/22/96. (Those receiving SSI as noted above automatically got Medicaid.) Every state but Alabama provided TANF; every state but Louisiana and Wyoming provided Medicaid.

Immigrants who arrived after 8/22/96 -- a small percentage of immigrants

In 1997, immigrants who arrived after 8/22/96 were ineligible for SSI, Medicaid (except emergency), TANF, and Food Stamps.

Discrimination -- Urban Institute Report: On March 2, 1999, the Urban Institute issued a report, *A National Report Card on Discrimination in America: The Role of Testing* that calls for a national report card on discrimination in America. They contend that such a report card would promote greater understanding of the prevalence of discrimination, provide strategic guidance to civil rights enforcement agencies, and develop insight on the changing pattern and impact of discrimination. The report also shows that a research method called paired testing -- the practice of sending individuals similar in all relevant characteristics except racial or ethnic backgrounds -- can be used to audit critical areas of discrimination. Currently, paired testing is used primarily by the Department of Housing and Urban Development (HUD) and other agencies such as Departments of Justice and Labor. The EEOC conducted a pilot project on the use of paired testing in the context of employment discrimination. However, Congress objected to the EEOC pilot project and EEOC agreed not to do any further testing in return for an increased funding. In the FY 2000 budget, the President's budget includes \$10 million for measuring discrimination including \$7.5 million to expand the EEOC program. If the results of the EEOC pilot program show promise, we may consider expanding the paired testing method to employment discrimination but it may raise the ire of Congress.

Children and Families -- Child Care. The House Ways and Means Subcommittee on Human Resources will hold a hearing on child care on March 16, which is significant because the last Congress refused to hold even a single hearing on the issue. The Administration will lead off the hearing testimony. Prior to the hearing, the Subcommittee's ranking Democrat, Rep. Ben Cardin (D-MD), will introduce a child care bill largely based on the Administration's proposals. In addition, Rep. Ellen Tauscher (D-CA) will re-introduce last year's House Democratic consensus child care bill and will reach out to the Democratic caucus for extensive Democratic co-sponsorship. Finally, we understand that Rep. Nancy Johnson (R-CT), Chair of the Subcommittee, may re-introduce the tax provisions of her child care bill from last year, which included the expansion of the Child and Dependent Care Tax Credit and a new credit for stay-at-home parents.

Livability -- Better America Bonds: DPC and Treasury staff met last week with staff from Ways and Means and Representatives Doggett and Matsui. Both Congressman are interested in introducing on behalf of the Administration, the Better America Bonds proposal. We will be working with their offices and Treasury over the next three weeks to draft the legislation.

Withdrawal/Redaction Marker

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DOCUMENT NO. AND TYPE	SUBJECT/TITLE	DATE	RESTRICTION
002. email	Todd Stern to Elena Kagan; RE: Dinner (1 page)	03/05/1999	Personal Misfile

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OPD ([Kagan])
OA/Box Number: 250000

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[03/05/1999]

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RESTRICTION CODES

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

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

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

RR. Document will be reviewed upon request.

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

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 5-MAR-1999 13:27:03.00

SUBJECT: vawa

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

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

TEXT:
Court Nixes Gender-Based Law

By Jean McNair
Associated Press Writer
Friday, March 5, 1999; 1:10 p.m. EST

RICHMOND, Va. (AP) -- A federal law that gives civil rights protections to victims of gender-motivated violence is unconstitutional, a divided federal appeals court ruled today.

The 4th U.S. Circuit Court of Appeals voted 7-4 to uphold a lower court's ruling against the Violence Against Women Act, which allows women to sue their sex attackers for damages in federal court for violating their civil rights. It has been the target of several legal challenges since it became law in 1994.

"Such a statute, we are constrained to conclude, simply cannot be reconciled with the principles of limited federal government upon which this nation is founded," said the ruling written by Judge J. Michael Luttig.

The act also included federal funding to help states curtail violence against women.

The full court overruled its own three-judge panel that in 1997 had voted 2-1 to throw out the lower court's ruling in the case of a college student who claimed her civil rights were violated by her school and two football players accused of raping her.

Christy Brzonkala, a student at Virginia Tech, said the attack occurred in a dormitory a few months after the federal law took effect.

She did not report the incident for several months and no criminal charges were ever filed against the two players, Antonio Morrison and James Crawford. She contends in her lawsuit that their acts violated her civil right to be free from gender-motivated crimes of violence.

She contended that Virginia Tech mishandled the campus judicial proceedings against the players and protected them because they were athletes.

The appeals court ruled that Congress overstepped its bounds when it relied on its power to regulate interstate commerce to enact the law.

Ms. Brzonkala, who has allowed her name to be made public, argued that gender-motivated violence affects commerce by imposing medical and legal costs on victims, inhibiting travel by those who fear violence and lessening productivity. She was the first to sue under the law.

But the court described the law as ``a sweeping intrusion'' into matters traditionally handled by the states.

Ms. Brzonkala's case never got to trial.

The ruling means the federal law is no longer in effect in the 4th U.S. Circuit, which includes Virginia, West Virginia, Maryland, North Carolina and South Carolina.

Ms. Brzonkala's lawyer said the case would be appealed to the U.S. Supreme Court.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Mary L. Smith (CN=Mary L. Smith/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 5-MAR-1999 14:01:37.00

SUBJECT: Decision Meeting on Comparable Worth

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

TO: jorszag (jorszag @ doc.gov @ inet [UNKNOWN])
READ:UNKNOWN

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

TO: Rebecca M. Blank (CN=Rebecca M. Blank/OU=CEA/O=EOP @ EOP [CEA])
READ:UNKNOWN

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

TO: David W. Beier (CN=David W. Beier/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

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

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

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

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

CC: Dawn V. Woollen (CN=Dawn V. Woollen/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

CC: Shannon Mason (CN=Shannon Mason/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

CC: Francine P. Obermiller (CN=Francine P. Obermiller/OU=CEA/O=EOP @ EOP [CEA])
READ:UNKNOWN

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

TEXT:

Elena Kagan is holding a meeting on Wednesday, March 10 at 4p.m. in Room 211 to discuss the Administration's position on comparable worth as contained in Senator Harkin's bill. We will also discuss positions on collecting wage data. Thanks, Mary

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jose Cerda III (CN=Jose Cerda III/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 5-MAR-1999 14:07:55.00

SUBJECT: Quickie descriptions of new/proposed crime bill provisions

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

CC: Leanne A. Shimabukuro (CN=Leanne A. Shimabukuro/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

TF/BR/EK:

Here's on more crime bill provision:

Pension Fraud. The President's new crime bill makes it a federal crime to defraud an employee pension benefit or retirement plan. It increases the penalty for embezzlement from such plans from 5 to 10 years imprisonment, as well as for bribery (3 to 10 years) and graft (3 to 5 years) associated with the operation of pension and retirement plans.

----- Forwarded by Jose Cerda III/OPD/EOP on 03/05/99
01:51 PM -----

Jose Cerda III

03/02/99 09:57:37 PM

Record Type: Record

To: Thomas L. Freedman/OPD/EOP

cc: Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP, Leanne A. Shimabukuro/OPD/EOP

Subject: Quickie descriptions of new/proposed crime bill provisions

Tom:

As requested by you/Bruce earlier today, below please find brief, if not perfect, descriptions of the new white collar crime and chem-bio provisions in our crime bill. We have some other things that may not end up in the bill, so I haven't incorporated them here. Also, we have a huge money laundering package that I can't even begin to characterize in any simple/short way, though you may want to consider including a sentence on releasing a national strategy to crack down on money laundering.

Health Care Fraud. The President's new crime bill proposes cracking down on health care fraud by:

- (1) Increasing from 5 to 10 years the maximum penalty for obstructing a health care fraud investigation or providing false statements in relation to health care matters;
- (2) Cracking down on illegal kickback schemes in the health care industry by extending the current penalties that apply to federally funded health plans to all private health insurance providers; and
- (3) Strengthening the ability of federal prosecutors to investigate and bring civil health care fraud cases.

Telemarketing Fraud. The President's new crime bill strengthens our efforts against telemarketing fraud by authorizing federal law enforcement authorities to block or terminate telephone service to anyone engaged in telemarketing fraud (just as they currently can with persons engaged in illegal gambling).

Environmental Crimes. The President's new crime bill includes tough new provisions to crack down on environmental crimes, including:

- (1) Authorizing federal courts to order convicted criminals to reimburse states and localities for the costs of prosecuting environmental crimes (this should help foster joint federal, state, and local prosecutions of these crimes).
- (2) Enhancing penalties for environmental crimes that result in serious bodily injury or death to any person -- including police, firefighters, paramedics, and other public safety and health personnel who are often the first on the scene of an environmental crime;
- (3) Extending the statute of limitations up to 3 more years (to a total of 8 years) for environmental criminals who act to conceal their crimes;
- (4) Punishing attempted environmental crimes the same as those crimes actually committed (This allows law enforcement authorities to intervene before lives are lost or damage is done to the environment);
- (5) Guaranteeing that victims of environmental crimes -- including, in some instances, whole communities -- are eligible for restitution.

Expansion of Biological Weapons Statute. The President's new crime bill expands and updates our laws against biological weapons, including by:

- (1) Establishing a 10-year penalty for any person that knowingly possesses a biological weapon (agent, toxin, or delivery system), and making the use of a biological weapon that results in death an offense punishable by death;
- (2) Making it a crime to falsely report that someone possesses a biological weapon; and
- (3) Requiring that the possession of certain biological agents and toxins be reported to HHS within a specified time period, and establishing civil and criminal penalties for failing to report. to HHS or to comply with regulations is issues on the transfer and possession of these agents.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Mary L. Smith (CN=Mary L. Smith/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 5-MAR-1999 15:06:05.00

SUBJECT: Meeting on Food Safety

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

TO: Morley A. Winograd (CN=Morley A. Winograd/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

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

TO: Neal Lane (CN=Neal Lane/OU=OSTP/O=EOP @ EOP [OSTP])
READ:UNKNOWN

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

CC: Betty J. Fountain (CN=Betty J. Fountain/OU=OSTP/O=EOP @ EOP [OSTP])
READ:UNKNOWN

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

CC: Clifford J. Gabriel (CN=Clifford J. Gabriel/OU=OSTP/O=EOP @ EOP [OSTP])
READ:UNKNOWN

CC: Jennifer R. Muller (CN=Jennifer R. Muller/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

CC: Cathy R. Mays (CN=Cathy R. Mays/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

We will have a meeting on the NAS report and a possible reorganization of food safety inspections on Tuesday, March 9 at 2:15p.m. in Bruce's office. Thanks, Mary

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Constance J. Bowers (CN=Constance J. Bowers/OU=OMB/O=EOP [OMB])

CREATION DATE/TIME: 5-MAR-1999 15:18:16.00

SUBJECT: ED Dept. edits to SAP

TO: Jonathan H. Schnur (CN=Jonathan H. Schnur/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

TO: Tanya E. Martin (CN=Tanya E. Martin/OU=OPD/O=EOP@EOP [OPD])
READ:UNKNOWN

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

TEXT:

This is closer to the Senate SAP, but doesn't make support contingent on passage of the amendments. Let me know what you think.

[The second and fourth paragraphs come from Mike Cohen and Scott Fleming (our Assistant Secretary for Legislation). The second paragraph is designed to let the House Democrats know that we appreciate their efforts (the amendments it refers to came from them). The 4th paragraph is a place-holder until we have a better idea of the amendments that will be offered. The reference to Federal dollars reaching the schools for which they were intended relates to possible amendments concerning the percentage of a school's students who must be poor in order for an LEA to operate a schoolwide program under Title I of the ESEA.]

DRAFT
MARCH 5, 1999
2:50 PM

STATEMENT OF ADMINISTRATION POLICY

H.R. 800 - EDUCATION FLEXIBILITY PARTNERSHIP ACT OF 1999
(Rep. Castle (R) DE and 59 cosponsors)

The Administration supports House passage of H.R. 800, which would expand the "Ed-Flex" demonstration authority to permit all States that meet the eligibility criteria to waive certain statutory and regulatory requirements of Federal education programs. The Administration has long supported the concept of expanding ed-flex demonstration authority in a manner that will promote high standards and accountability for results, coupled with increased flexibility for States and local school districts to achieve those results.

The Administration is pleased with the amendments made at Committee mark-up to "sunset" the bill upon reauthorization of the Elementary and Secondary Education Act of 1965 (to ensure consistency between that statute and Ed-Flex), to terminate local waivers if achievement levels decline, and to require public notice and comment before waivers are requested and granted.

The Administration strongly supports an amendment that is expected to be offered to H.R. 800 that would implement the President's proposal for a long-term extension of the one-year authority to help school districts

reduce class size in the early grades, which the Congress approved last year

on a bipartisan basis. In order to hire qualified teachers, arrange for additional classrooms, and take other steps that are necessary to reduce class size, school districts need to know, as soon as possible, that the Congress intends to support this initiative for more than one year.

The Administration also supports amendments designed to: (1) strengthen accountability provisions to ensure that the Ed-Flex program strengthens student achievement; and (2) ensure that Federal education dollars continue to reach the schools and students they were designed to serve.

* * * * *

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Charles R. Marr (CN=Charles R. Marr/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 5-MAR-1999 15:49:52.00

SUBJECT: Davis-Bacon Q & A

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

TO: Jonathan H. Schnur (CN=Jonathan H. Schnur/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TO: JON.TALISMAN (JON.TALISMAN @ MS01.DO.treas.sprint.com @ inet [UNKNOWN])
READ:UNKNOWN

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

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

TO: kcurran (kcurran @ fenix2.dol-esa.gov @ inet [UNKNOWN])
READ:UNKNOWN

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

TO: David W. Beier (CN=David W. Beier/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

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

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

TO: Kristi_Kimball (Kristi_Kimball @ ed.gov @ inet [UNKNOWN])
READ:UNKNOWN

CC: Melissa G. Green (CN=Melissa G. Green/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

Representative Goodling, along with 99 other questions, has asked Secretary Riley in writing whether Davis-Bacon applies to our school construction proposal.

Attached is our current q & a on the issue, which is a basically "we're looking at it" non-answer (Note: I made a minor change to what we gave the VP previously -- I dropped the "we've been asked to look into it" part and left the "we're look at it part")

This is what we'll go with unless folks have serious concerns. If you do, let me know and we can do a conference call on Monday. Thanks.

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

TEXT:

Unable to convert ARMS_EXT:[ATTACH.D20]MAIL43942886G.036 to ASCII,
The following is a HEX DUMP:

FF57504332060000010A02010000000205000000700D000000020000E2AFE29970AD2A654F45AB
3BE5194FA70E146305F5F862A228032923CC6EA276239412B114A33201CD3E1197824F587CC48C

Davis-Bacon and School Construction

March 5, 1999

Q: Would Davis-Bacon apply to the Administration's new school construction proposal?

A: First of all, I want to reiterate the Administration is a strong supporter of the application of Davis-Bacon when Federal Government outlays are involved.

- Whether Davis-Bacon should apply to this tax cut proposal is an issue that has come up in the past and we are taking another look at it.

Background:

The Administration position has been Davis-Bacon would not apply to our school construction proposal because it is on the tax side of the budget (where Davis-Bacon historically has not been applied) and not on the spending side (where Davis-Bacon does apply). Other similar tax subsidies, such as tax exempt bonds and the Low Income Housing Tax Credit, have not historically been subject to Davis-Bacon

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 5-MAR-1999 15:50:22.00

SUBJECT: Meeting on Food Safety

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

READ:UNKNOWN

TEXT:

Bruce told mary that you are out on Tuesday? If so should they hold this meeting without you or wait until you return?

----- Forwarded by Laura Emmett/WHO/EOP on 03/05/99 03:49

PM -----

Mary L. Smith

03/05/99 03:03:49 PM

Record Type: Record

To: Neal Lane/OSTP/EOP, Morley A. Winograd/OVP @ OVP, Bruce N. Reed/OPD/EOP, Elena Kagan/OPD/EOP

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

Subject: Meeting on Food Safety

We will have a meeting on the NAS report and a possible reorganization of food safety inspections on Tuesday, March 9 at 2:15p.m. in Bruce's office. Thanks, Mary

Message Copied

To: _____

Cathy R. Mays/OPD/EOP

Laura Emmett/WHO/EOP

Jennifer R. Muller/OVP @ OVP

Betty J. Fountain/OSTP/EOP

Clifford J. Gabriel/OSTP/EOP

Thomas L. Freedman/OPD/EOP

March 6, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

Tobacco: Medicaid Recoupment: Despite efforts by Senators Harkin, Durbin, and Specter, on Thursday the Senate Appropriations Committee added to the supplemental appropriations bill the Hutchison bill which lets states keep all tobacco settlement funds without any commitment to use the federal share to prevent youth smoking, protect tobacco farmers, promote public health, or assist children. Before the markup, the Chairman of the Finance Committee, Senator Roth, sent a letter to Senator Stevens saying Appropriations Committee action on the Hutchison bill would "bypass the jurisdiction of the Finance Committee" and that the bill "has enormous ramifications for the Medicaid program and should be thoughtfully considered through the committee process." He noted the amendment was not paid for and urged the committee, if it was compelled to act, to prevent recoupment only in 1999 or 2000 to give the Finance Committee time to act. The Hutchison bill now has 40 co-sponsors, including 9 Democrats (many of whom say they would be willing to accept an alternative along the lines we've proposed). While we continue to urge the Congress to adopt a measure which ensures the federal share is used to promote public health, assist children and protect farmers, we recommend we issue a veto threat to underscore our opposition to the Hutchison measure.

Tobacco -- New Evidence Confirms Higher Taxes Reduce Smoking: Two new studies show cigarette sales declined sharply in Alaska and Oregon after the states instituted higher tobacco taxes. In October 1997, Alaska tripled its tax from \$.29 to \$1.00 a pack, raising the retail price of cigarettes by 39 percent to \$3.14 a pack. The next year, tobacco sales declined 17 percent from 1995 and 1996 levels and average monthly tobacco tax collections increased from \$1.5 to \$4.3 million per month. Moreover, the state found no evidence of increased smuggling or crime.

Oregon raised its tax by \$.30 per pack in February 1997, increasing cigarette prices by 16 percent, and devoted 10 percent of the proceeds for tobacco-use prevention programs. Tobacco sales in 1997 and 1998 fell 11.3 percent compared to 1993-1996 levels. The analysis, by the Centers for Disease Control and the Oregon Health Division, found that this comprehensive approach of a price increase plus prevention programs had a much bigger effect than a price increase alone. Most studies of price increases have found that every 10 percent increase in price will reduce overall smoking by about 4 percent (the effect is higher for youth -- about 7 percent) -- essentially the effects found in Alaska. According to this

model, a 16 percent price increase in Oregon should have resulted in a 6.3 percent decrease in consumption, not the 11.3 actually achieved. The CDC attributes the higher smoking reduction rates to the state's \$8.5 million a year tobacco use prevention program which funded community-based tobacco-use prevention coalitions in every county, a statewide public awareness and education campaign, comprehensive school-based programs, tribal tobacco-use prevention programs, multicultural outreach and education, a quitters' help line providing smoking cessation support, and projects evaluating new approaches to prevent or reduce tobacco use. Nearly all (93 percent) of the program's funds were awarded in grants or contracts outside state government (e.g., county health departments, community-based agencies, tribal governments, private sector agencies implementing public awareness campaign). These findings bolster the rationale for ensuring that states use at least part of their settlement on tobacco use prevention.

Education -- Ed-Flex: The Ed-Flex bill is now being debated on the Senate floor. The Senate has passed Amendments to strengthen accountability (Kennedy-Dodd) and to create a priority for high poverty (75%) Title I Schools (Wellstone). We expect the class-size amendment (Murray-Kennedy) to be offered on Friday. However, the Republican leadership is seeking a cloture vote at 5 pm on Monday to cut-off debate on Ed-Flex and prevent a vote on the class size amendment. We have released a statement from you urging the Republicans to allow an up-or- down vote. Secretary Riley and Senate Democrats also held a press conference at which they called for a vote on class size. The major education groups have launched a campaign to place op-eds in local newspapers and to notify their affiliate offices about the vote and how much class size funding is at stake in their communities.

Education -- Supreme Court Ruling on the Individuals with Disabilities Education Act (IDEA.): The Supreme court voted 7-2 that school districts are required under IDEA to provide care to a student -- unless that care would need to be administered by a doctor -- that is necessary for that student to attend school and get a "free and appropriate public education" guaranteed by the law. The case involved a student in Cedar Rapids, Iowa whose spinal column had been severed in a motorcycle accident when he was four years old. The student needs assistance during the day involving such things as tracheotomy tube and assistance and ventilator assistance.

The ruling reaffirmed longstanding Education Department interpretation of IDEA, and the Administration argued on behalf of the student in the case. While the opinion may fuel public and media concerns about the costs imposed by IDEA, the national costs to local school districts providing these services may not exorbitant. In 1991, the Office of Technology Assistance estimated that there are about 680-2000 students who needs ventilator assistance, and that 1000-6000 students requiring assistance of tracheotomy tubes. The National School Boards Association estimates that there are about 17,000 students with any type of need covered by this decision --many much less costly than this student's needs. Moreover, local school districts do not need to bear the cost of this alone. The Education Department will continue to offer assistance to help interested states school districts tap

existing resources under state set-asides in the Individuals with Disabilities Education Act. Moreover, many children with these needs may well be eligible for Medicaid. The Education Department, working with OMB and HHS, will develop a plan for proactive assistance to help interested states and school districts make appropriate use of existing federal resources to meet their obligation under the law.

Health Care -- Release of new regulation to promote the safe and effective use of over-the-counter drug products: Next Wednesday, the White House will unveil a new FDA regulation requiring over the counter drug products to use a standardized format with larger print that makes it easier for consumers to understand product warnings and comply with dosage guidance. The Vice President will join Secretary Shalala and FDA Commissioner Henney in announcing that the regulation has been put on display. This action will be widely heralded by consumer representatives, physician and other provider groups, and even by product manufacturers. Studies indicate that parents often have difficulty determining the correct dosage of over-the-counter medications, and that many of the elderly, who take significantly more over-the-counter drugs than the rest of the population, have difficulty reading the small type on the product labels. This new regulation represents a critical first step towards preventing the thousands of unnecessary hospitalizations caused by misuse of over the counter medications each year.

Health Care -- Signing of Executive Order on Genetic Discrimination: Next week, you are tentatively scheduled to sign a new executive order directing Federal agencies to take all necessary action to guard against employment discrimination in Federal hiring practices through the inappropriate use of genetic information. The prohibition against using genetic information to inappropriately deny individuals access to health insurance coverage for Federal employees and many (but not all) of the insured population was effectively applied when you signed Kennedy-Kassenbaum into law in 1996. We currently plan to unveil your EO in an event with the Vice President and a bipartisan group of Members of Congress who are supporting Federal legislation to apply these protections to all employers and insurers.

Crime -- Directive on Firearms Enforcement: We are preparing a directive for you to sign that will ask Secretary Rubin and Attorney General Reno to work with the U.S. Attorneys and ATF Special Agents in Charge to develop a national strategy to strengthen the enforcement and prosecution of federal firearms laws. As you know, the NRA has repeatedly called for the widespread replication of Project Exile in Richmond, VA, where the U.S. Attorney generally prosecutes all firearms offenses in federal court. Your proposed directive will be broader in scope. It will call for: the timely prosecution of gun criminals at the federal and state level; increased efforts to trace crime guns, identify illegal gun markets, and determine gun "hot spots"; coordinated law enforcement efforts to ensure that gun dealers comply with all applicable city, state and federal laws; and more. This directive could be released in conjunction with a new Justice Department report, *Promising Strategies to Reduce*

Gun Violence, which details more than 50 examples of local strategies and partnerships that are reducing gun violence across the country. These include: comprehensive violence reduction programs that focus on guns; gun deterring illegal gun possession through consent searches and the aggressive seizure of firearms; targeted enforcement in gun "hot spots"; increased surveillance of probationers; school-based prevention programs; focused and vertical prosecution strategies; and special youth gun courts.

Crime -- Upcoming Announcements/Hearings: Next Thursday, Deputy Attorney General Holder plans to use his morning press availability to highlight the community prosecutors portion of your proposed 21st Century crime bill. As you know, your FY 2000 budget and proposed crime bill will include \$1 billion over the next 5 years to hire and train community prosecutors. As the former U.S. Attorney for DC, Holder helped to launch one of the first successful community prosecution programs, and he is personally committed to building public and congressional support for this initiative. On a related note, in testimony before the House Committee on Government Reform this past Wednesday, Mayor Guiliani of New York expressed support for community prosecution programs.

Welfare Reform -- Supplemental Proposes Cutting TANF Block Grant: The Senate Appropriations committee has proposed paying for emergency supplemental spending in part by cutting \$350 million in TANF block grant funding in FY 1999. While the bill would restore the cut in later years, we believe this provision establishes a dangerous precedent of raiding TANF to pay for other measures and we should vigorously oppose it. Cuts in TANF will undermine states' ability to reserve funds for a rainy day and assist families during an economic downturn. Moreover, cuts in TANF may prevent states from investing in helping more families move from welfare to work, just as work requirements increase and those remaining on the rolls face greater challenges to employment. Finally cuts in TANF may interfere with innovative efforts to help those former recipients who have joined the workforce succeed in the workplace and advance in their careers. The governors are strongly opposing these cuts, saying they break the commitment made by the Congressional leadership in 1996 to a guaranteed five years of full block grant funding.

State data compiled by HHS (but not yet released) show that in FY 1998 states spent or obligated 84% of the \$16.5 billion TANF block grant, leaving \$2.7 billion or 16% unobligated. There is considerable state variation -- 19 states have obligated all of their FY 98 funds, but 12 states account for three-quarters of the unobligated balances. We will provide you with more complete report on these trends in a separate memo.

Immigrant Benefits -- Declining Participation: The Urban Institute will issue a report on Monday showing evidence of a "chilling effect" that has resulted in fewer immigrant families, compared to citizen families, accessing an array of public benefits. The study found receipt of cash benefits (AFDC/TANF, SSI, and state-funded general assistance) by noncitizens declined by 35 percent from 1994 to 1997 while use by citizens declined 15 percent. Use of Medicaid and Food Stamps declined 22 and 30 percent respectively among noncitizens, but only 7 and 21 percent among citizens.

The report concludes that these effects are due primarily to the “chilling effect” of the welfare reform debate, since most legal immigrants were actually still eligible for benefits in 1997. (While new immigrants arriving after August 1996 were ineligible, the vast majority of legal immigrants in the U.S. in 1997 had arrived prior to that date and due to a one year delay in implementation were eligible for Food Stamps for most of the year and for SSI all year (since SSI benefits were restored in August 1997). Moreover, all but one or two states opted to provide TANF and Medicaid to legal immigrants who arrived before August 1996.) Despite the fact that most legal immigrants were eligible for most benefits in 1997, the publicity surrounding the debate over welfare and immigration reform may have led many immigrants to think they were ineligible or that accepting benefits would affect their immigration status. As you know we have been working closely with the Department of Justice and HHS on these issues, and we expect the INS will issue guidance in the near future to provide clarity on what type of benefits an immigrant can accept without being labeled a “public charge.” Clearer guidance on public charge policies, along with our proposals to restore additional health, nutrition, and disability benefits to vulnerable legal immigrants, will allow us to begin sending clearer messages to immigrant families regarding their eligibility for benefits.

Note to Bruce and Elena: You asked how it was true that most legal immigrants were still eligible for benefits in 1997. Here's how:

Immigrants who arrived before 8/22/96 -- the vast majority of immigrants in U.S. in 1997

SSI and Food Stamps: The welfare law gave the agencies a year to conduct redeterminations for SSI and Food Stamps for immigrants in the U.S. as of August 22, 1996. SSA and USDA conducted the redeterminations, but delayed notifying immigrants of their ineligibility for as long as possible. SSI benefits were restored August 5, 1997. Food Stamps were not, but immigrants were eligible for most of 1997.

Medicaid and TANF: the law gave states the option of providing TANF and Medicaid to immigrants who arrived pre 8/22/96. (Those receiving SSI as noted above automatically got Medicaid.) Every state but Alabama provided TANF; every state but Louisiana and Wyoming provided Medicaid.

Immigrants who arrived after 8/22/96 -- a small percentage of immigrants

In 1997, immigrants who arrived after 8/22/96 were ineligible for SSI, Medicaid (except emergency), TANF, and Food Stamps.

Discrimination -- Urban Institute Report: On March 2, 1999, the Urban Institute issued a report, *A National Report Card on Discrimination in America: The Role*

of Testing that calls for a national report card on discrimination in America. They contend that such a report card would promote greater understanding of the prevalence of discrimination, provide strategic guidance to civil rights enforcement agencies, and develop insight on the changing pattern and impact of discrimination. The report also shows that a research method called paired testing -- the practice of sending individuals similar in all relevant characteristics except racial or ethnic backgrounds -- can be used to audit critical areas of discrimination. Currently, paired testing is used primarily by the Department of Housing and Urban Development (HUD) and other agencies such as Departments of Justice and Labor. The EEOC conducted a pilot project on the use of paired testing in the context of employment discrimination. However, Congress objected to the EEOC pilot project and EEOC agreed not to do any further testing in return for an increased funding. In the FY 2000 budget, the President's budget includes \$10 million for measuring discrimination including \$7.5 million to expand the HUD program. If the results of the EEOC pilot program show promise, we may consider expanding the paired testing method to employment discrimination but it may raise the ire of Congress.

Children and Families -- Child Care. The House Ways and Means Subcommittee on Human Resources will hold a hearing on child care on March 16, which is significant because the last Congress refused to hold even a single hearing on the issue. The Administration will lead off the hearing testimony. Prior to the hearing, the Subcommittee's ranking Democrat, Rep. Ben Cardin (D-MD), will introduce a child care bill largely based on the Administration's proposals. In addition, Rep. Ellen Tauscher (D-CA) will re-introduce last year's House Democratic consensus child care bill and will reach out to the Democratic caucus for extensive Democratic co-sponsorship. Finally, we understand that Rep. Nancy Johnson (R-CT), Chair of the Subcommittee, may re-introduce the tax provisions of her child care bill from last year, which included the expansion of the Child and Dependent Care Tax Credit and a new credit for stay-at-home parents.

Livability -- Better America Bonds: DPC and Treasury staff met last week with staff from Ways and Means and Representatives Doggett and Matsui. Both Congressman are interested in introducing on behalf of the Administration, the Better America Bonds proposal. We will be working with their offices and Treasury over the next three weeks to draft the legislation.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 5-MAR-1999 17:01:15.00

SUBJECT: CRA MEMORANDUM

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

Holding the line on both fronts.

----- Forwarded by Paul J. Weinstein Jr./OPD/EOP on
03/05/99 05:01 PM -----

Paul J. Weinstein Jr.

03/05/99 04:59:38 PM

Record Type: Record

To: "KORNBLUHK&DOM3.DOPO5" <KAREN.KORNBLUH @ MS01.DO.treas.sprint.com> @
inet, "levinem&DOM3.DOPO5" <MARNE.LEVINE @ MS01.DO.treas.sprint.com> @ inet
cc: Sarah Rosen/OPD/EOP, "BARRM&DOM3.DOPO6" <Michael.Barr @
MS01.DO.treas.sprint.com>
Subject: CRA MEMORANDUM

You need to be aware that Maria Echaveste and Chuck Ruff have established a task force on civil rights issues (Civil Rights Coordinating Council). It is their attempt to exert a greater influence on what they view as race issues. They included CRA and access to capital and credit on that list. I advised them of the following:

1. The DPC and NEC will continue, as they have for the last six years, to coordinate CRA and access to credit and capital policy in the Administration (along with Treasury), and that while their interest was welcome, we would not be setting up a separate and new process. They concurred, but want to be apprised of what is going on and want regular reports. That of course is completely understandable.

2. I also told them, that it was unnecessary, and in fact not helpful, to discuss with Justice and HUD enforcement issues without taking into account its impact on Financial Modernization. They understand and all this will be handled through the current process on financial modernization.

3. I advised them that we are doing a memorandum for POTUS and VPOTUS on the CRA issue and that we were targeting the end of next week. I advised them that Treasury would do the first draft.

4. They also raised several issues regarding the Fed and Reg B. I told them Treasury was the appropriate and ONLY entity discussing any issues under Fed jurisdiction.

All this however, underscores the need to have a thoughtful and direct

options memo to POTUS on CRA so that we can nip in the bud any other desires to tie the race and civil rights agenda to CRA and financial modernization. As you know, any connection would be devastating to both.

So no reason to panic. Call me if you want to discuss further.

PJW

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Richard L. Siewert (CN=Richard L. Siewert/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 5-MAR-1999 17:26:30.00

SUBJECT: Airline Story -- Lead Story last Sunday in Dallas Morning News

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

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

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

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

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

TO: Melissa G. Green (CN=Melissa G. Green/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

TEXT:

Airlines facing outcry Congress looks for ways to boost passenger rights

Byline:Robert Dodge

Credit:Staff Writer of The Dallas Morning News

Dateline:WASHINGTON

Art:PHOTO(S): 1. John Dingell . . . Michigan Democrat plans to introduce a proposal this week. 2. John McCain . . . Arizona Republican chairs a Senate transportation committee. 3. Ron Wyden . . . Oregon Democrat is helping push

for bipartisan legislation.

Text:

WASHINGTON - It seems everyone has an airline horror story to tell these days.

Take Sue Curtis and her husband. The Dallas couple thought Vanguard Airlines

Inc. had made an appropriate conciliatory gesture when it gave them two free

tickets after they were delayed for more than six hours last summer just outside Kansas City, Mo.

But there was a hitch. After spending hours on the phone with Vanguard, and after giving the tickets to her daughter and then to friends in Chicago, Ms.

Curtis said, the airline could not produce seats.

"No one was able to use them," said Ms. Curtis, disgruntled. And then the six-

month deadline to redeem the tickets expired.

Vanguard said it allots a limited number of free seats on its flights, just the sort of explanation that has angered passengers already fuming about what

they view as deteriorating airline service.

And though airline officials contend they provide a high level of service at low fares, recent extraordinary events - passengers detained on Northwest Airlines' planes during a Midwest snowstorm in January and the American Airlines pilots' sickout - have touched a raw nerve on Capitol Hill.

Lawmakers, who fly frequently, have introduced several bills that would mandate more passenger rights. The proposals appear to be generating bipartisan support.

The outcry also has been heard at the White House, where officials looked into the issue after sharing personal experiences about Northwest's snowstorm episode.

"We are taking a close look at this because we think there are some legitimate concerns," said White House spokesman Jake Siewert.

Officials at the Department of Transportation, who requested anonymity, said they are encouraged by the legislative proposals, seeing an opportunity to force airlines to improve customer service without having to go through the process of writing regulations.

Helping passengers

No one is expecting Congress to mandate bigger seats and better meals. But the proposals would require airlines to keep passengers better informed about delays, cancellations and air fares, and in some cases, would force financial compensation for inconvenienced passengers.

"I cannot walk on the floor of the House or to the House gym without members coming up and telling me about the horrible experiences that they or their constituents have had on the airlines," said Rep. Bud Shuster, R-Pa., chairman of the House Transportation and Infrastructure Committee.

Rep. John Dingell, D-Mich., introduced a competing proposal this week. And in the Senate, bipartisan legislation is being sponsored by Sen. John McCain, R-Ariz., chairman of the Senate Commerce, Science and Transportation Committee, and one of the panel's Democrats, Sen. Ron Wyden of Oregon. Both House and Senate committees plan hearings in early March.

"There's a feeling that the airlines have been very profitable and that passenger service is getting short shrift," Mr. Wyden said.

Airline spokesmen deny that service has suddenly deteriorated. And industry executives warn that legislative initiatives could begin to resurrect the inflexible scheme that governed schedules and fares before deregulation in 1978.

"Our market research shows the airline industry continues to enjoy high favorable ratings with the general public," said Dave Fuscus, a spokesman for the Air Transport Association, the industry's Washington lobbying organization.

Industry changes

But some passengers complain that service has changed dramatically during the two decades since deregulation. Seating is more crowded, bags of snacks have replaced hot meals and flight attendants and other airline employees sometimes appear overwhelmed with the crush of passengers. And each travel season seems to bring new announcements of discontinued services or new fees.

For instance, Delta Air Lines Inc. of Atlanta announced in January it would levy a \$2 surcharge for round-trip tickets not booked through the company's Web site. After a sharp customer rebuke, the airline rescinded the policy but said it would only refund the \$2 fees collected during the interim period if customers paid a \$75 service charge.

Delta officials declined to be interviewed and referred questions to the Air Transport Association, which contends service has not deteriorated.

But Department of Transportation statistics show that passenger complaints are rising. Last year, the department recorded 9,606 complaints, a 25 percent increase over 1997. At the same time, airline profits have been going up. According to the department, airlines reported net income of \$5.3 billion in 1998, up more than 23 percent from \$4.3 billion reported in 1997.

And with fewer options for travel and a robust economy, more people are flying. The number of passengers has more than doubled to 608 million a year over the last two decades. Industry forecasts said there will be 1 billion by 2008.

Although passenger discontent has been festering for some time, some industry officials fault Northwest for attracting the scrutiny of Congress and the Clinton administration.

"Runway Sunday"

As many as 4,500 passengers were stuck inside Northwest's airplanes up to eight hours during a fierce January snowstorm at the carrier's major hub, Detroit Metropolitan Airport. Passengers were forced to remain aboard grounded aircraft as lavatories backed up and food and water ran out, only to see many flights eventually canceled.

"Northwest had done such a terrible job within that blizzard that it drew attention to itself and the industry," said an executive at a rival airline, who asked not to be identified.

Northwest spokesman Jon Austin acknowledged the "Runway Sunday" incident drew passengers' ire. But he said it was a bad idea for the government "to insert itself between a business and its customers."

"I will say as an industry we have done some of this to ourselves," he added, noting that Northwest has sent out 8,000 free tickets and an apology to detained passengers.

The American pilots' sickout also is drawing fire. San Francisco lawyer Patrick Catalano said a general frustration about airline service may have played a role when six Illinois residents filed a lawsuit against the pilots' union over a flight cancellation.

Airline response

American officials declined to comment about proposed legislation and referred to a prepared statement that suggested Congress could make better use of its time by improving the air traffic control system.

"We are nearing the point of gridlock at many airports and in the skies, and Congress' failure to address these issues will only result in more delays and higher air fares," the American statement read.

Lawmakers said they will not tolerate an unresponsive attitude by the airlines. "They better not put their heads in the sand, as this is a serious issue," Mr. Shuster said.

The various legislative proposals would require airlines to tell passengers when flights are overbooked, as well as the reasons for delays, cancellations and diverted flights. Airlines also would have to disclose the number of seats available on each flight to frequent fliers and provide information about all fares available.

In some cases, passengers would be entitled to compensation for delays, full refunds on canceled flights and the opportunity to cancel reservations without penalty within 48 hours after they were made.

Hal Salfen, director of consumer affairs at the International Airline Passengers Association, applauded the proposals. But he said that they would be difficult to enforce and that passengers also bear responsibility

because they put heavy demands on the airlines, such as bringing too many bags aboard.

Setting standards

Sponsors of the legislation said they expect objections from lawmakers who do not want Congress intervening in the marketplace. That concern was echoed Friday by retired American Airlines chairman Robert L. Crandall, who said every airline executive wants to treat every customer well, but "the question of whether you can pass a law that will in some way affect customer service standards is a very open question."

Some airline customers expressed similar misgivings about the government stepping in. Mark Hunt of Coppell, a sales manager with Pepsico Food Imports Inc., said that doesn't always improve things.

"I think the government sometimes gets involved in areas where they become more of a problem than a benefit," he said.

But Mr. McCain said it was unlikely free-market competition would solve the problem.

"If we had sufficient competition, I would be much more open to that argument," he said. "There is less and less competition and more and more consolidation."

And even Mr. Hunt, who travels about 60,000 miles a year on business, said he would like more accurate information from airlines about why he's sitting in the terminal waiting and waiting for a flight.

"That would be absolutely fantastic if they forced airlines to let us know the reason for a delay . . . and be held more accountable for the times they give the passengers," he said. He said he is irritated about instances when a brief delay follows a brief delay, and "next thing you know, you've been sitting there for two hours."

Staff writer Terry Maxon in Dallas contributed to this report.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 5-MAR-1999 18:53:13.00

SUBJECT: Hate Crimes statement fyi

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

TO: Mary L. Smith (CN=Mary L. Smith/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:
----- Forwarded by Thomas L. Freedman/OPD/EOP on 03/05/99
06:53 PM -----

Richard Socarides 03/05/99 12:41:14 PM

Record Type: Record

To: Edward W. Correia/WHO/EOP, Thomas L. Freedman/OPD/EOP
cc:
Subject: statement

----- Forwarded by Richard Socarides/WHO/EOP on 03/05/99
12:41 PM -----

Amy Weiss
03/05/99 12:35:32 PM
Record Type: Record

To: Richard Socarides/WHO/EOP, Jason H. Schechter/WHO/EOP
cc:
Subject: statement

----- Forwarded by Amy Weiss/WHO/EOP on 03/05/99 12:36 PM

James E. Kennedy
03/05/99 11:13:47 AM
Record Type: Record

To: Amy Weiss/WHO/EOP
cc:
Subject: statement

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

TEXT:

Unable to convert ARMS_EXT: [ATTACH.D76]MAIL47831596Y.036 to ASCII,
The following is a HEX DUMP:

FF5750435A040000010A02010000000205000000FD0C000000020000A2EFDB7068FDB7A9E62373
125A7270E1C69E492C7E19A2576ECD283ACA164D00149BE9BC82C6951693CBBA79C0807A740E61
0BA77863D38DBAAEB33BEC3B93C6B4AA3271904C628A31467C447C3BBC405CB9F2790B8B3D6C3C

Statement Of The President

I share with many Americans a sense of grief and outrage at the tragic and violent death of Billy Jack Gaither in Alabama. This heinous and cowardly crime touches the conscience of our country, just as the terrible murders of James Byrd in Texas and Matthew Shepard in Wyoming did last year.

In times like this, the American people pull together and speak with one voice, because the acts of hatred that led to the deaths of such innocent men are also acts of defiance against the values our society holds most dear.

That is why I will continue to work for passage of the Hate Crimes Prevention Act, which can empower the federal government, working with local authorities, to do even more to deter, investigate and help prosecute crimes of hatred. The legislation would remove needless jurisdictional requirements and give the Department of Justice the power to prosecute hate crimes committed because of the victim's sexual orientation, gender or disability.

Laws represent values that we as a society cherish, and among those values is a belief that intolerance is un-American. And intolerance, left unchallenged, can inspire evil deeds that threaten the very fabric of this great country. All Americans deserve protection from hate. Nothing is more important to our country's future than our standing together against intolerance, prejudice and violent bigotry. Congress can give power to such shared values by passing the Hate Crimes Prevention Act. In so doing, all Americans can be made more safe and secure.

Hillary and I offer our prayers for the family and friends of Mr. Gaither, and our hope that their love for him, together with God's grace, will carry them through these trying times.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: "Gomperts, John" <JGompert@cns.gov> ("Gomperts, John" <JGompert@cns.gov> [

CREATION DATE/TIME: 5-MAR-1999 18:00:03.00

SUBJECT: RE: AmeriCorps Visibility Conference Call

TO: Andrew J. Mayock (CN=Andrew J. Mayock/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

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

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

TO: Thurgood Marshall Jr (CN=Thurgood Marshall Jr/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO: Tanya E. Martin (CN=Tanya E. Martin/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

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

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

TO: Anne E. McGuire (CN=Anne E. McGuire/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

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

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

TO: Karen Tramontano (CN=Karen Tramontano/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO: Shirley S. Sagawa (CN=Shirley S. Sagawa/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO: MaryEllen C. McGuire (CN=MaryEllen C. McGuire/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

TO: JGompert@cns.gov (JGompert@cns.gov [UNKNOWN])
READ:UNKNOWN

CC: Cathy R. Mays (CN=Cathy R. Mays/OU=OPD/O=EOP [OPD])
READ:UNKNOWN

CC: Ruby Shamir (CN=Ruby Shamir/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

CC: Carolyn T. Wu (CN=Carolyn T. Wu/OU=WHO/O=EOP [WHO])
READ:UNKNOWN

CC: TWest@cns.gov (TWest@cns.gov [UNKNOWN])

READ:UNKNOWN

TEXT:

We at the Corporation have our Board meeting on Monday in Indianapolis. I think that all of us who would ordinarily be on the call will be unavoidably unavailable. JG

> -----Original Message-----

> From: MaryEllen_C_McGuire@who.eop.gov

> [SMTP:MaryEllen_C_McGuire@who.eop.gov]

> Sent: Friday, March 05, 1999 11:15 AM

> To: Shirley_S_Sagawa@who.eop.gov; Karen_Tramontano@who.eop.gov;

> Ann_F_Lewis@who.eop.gov; Stacie_Spector@who.eop.gov;

> Anne_E_McGuire@who.eop.gov; Bruce_N_Reed@opd.eop.gov;

> Elena_Kagan@opd.eop.gov; Tanya_E_Martin@opd.eop.gov;

> Thurgood_Marshall_Jr@who.eop.gov; Thomas_L_Freedman@opd.eop.gov;

> JGompert@cns.gov; Jennifer_M_Palmieri@who.eop.gov;

> Andrew_J_Mayock@who.eop.gov

> Cc: Carolyn_T_Wu@who.eop.gov; Ruby_Shamir@who.eop.gov;

> Cathy_R_Mays@opd.eop.gov; TWest@cns.gov

> Subject: AmeriCorps Visibility Conference Call

>

> Reminder:

> We will be having our biweekly AmeriCorps Visibility Conference call this

> coming Monday, March 8th at 4:00pm, 757-2100, code 4129

>

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Michael Waldman (CN=Michael Waldman/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 5-MAR-1999 18:14:14.00

SUBJECT: 1999-3-5 Sperling briefing

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

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

TEXT:
is this different from the thing you were suggesting we take our time to think about?
----- Forwarded by Michael Waldman/WHO/EOP on 03/05/99
06:14 PM -----

SUNTUM_M @ A1
03/05/99 01:16:00 PM

Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: 1999-3-5 Sperling briefing

THE WHITE HOUSE

Office of the Press Secretary

For Immediate Release March 5, 1999

PRESS BRIEFING BY
DIRECTOR OF NATIONAL ECONOMIC COUNCIL GENE SPERLING
AND CHAIR, COUNCIL OF ECONOMIC ADVISORS, JANET YELLEN

The Briefing Room

11:50 A.M. EST

MR. SIEWERT: As you know, the Labor Department had some new figures on the unemployment rate and job numbers today. Briefing for you on that today will be Janet Yellen, Chair of the President's Council on Economic Advisors; and Mr. Gene Sperling, my former boss, Director of the National Economic Council.

MS. YELLEN: Thank you. Today's employment report indicates that the economy remains on a path of strong, non-inflationary growth. Non-farm payroll employment rose a robust 275,000 in February; and, now, since January 1993, the economy has

created 18.1 million jobs and 16.8 million of those jobs are in the private sector.

The unemployment rate in February remained essentially unchanged, edging up slightly to 4.4 percent, from 4.3 percent in January. The unemployment rate has now been below 5 percent for 20 months without any sign of inflationary pressure. And our nation's continued and long-lasting strong labor market is benefitting all Americans, and that includes historically disadvantaged groups.

Even with this strong labor market, inflation remains in check. Average hourly earnings rose a tenth of a percent in February, and over the past 12 months average hourly earnings have increased 3.6 percent over a period when consumer prices rose about 1.75 percent. What that means is that American workers are experiencing strong, real wage gains while inflation remains tame.

In February, employment was up sharply in construction and retail trade, while manufacturing employment fell. Most other major sectors posted moderate gains. Reflecting the weakness in the world economy, manufacturing employment fell 1.8 percent during the past year, but job losses in this sector have been offset by strong gains elsewhere. Over the past 12 months, for example, employment in computer services rose 13 percent, and employment in engineering and managements services are up 7 percent.

Recent indicators suggest that the United States economy remains on a healthy course. Despite the challenges that face the U.S. economy, with the recent international financial turmoil, the United States economy is likely to continue, during the first part of 1999, on a path of solid growth with low unemployment, low inflation, solid job gains and improved living standards for American workers. Thanks.

MR. SPERLING: I'd just like to make a couple of comments concerning some of the initial information that was given out yesterday by Chairman Domenici and Chairman Kasich on □,

the Republican budget framework. I'd like to note what appears to be favorable about their budget outline, and what appears to provoke very serious questions.

What appears to be favorable is that over the last two years, this President, in both State of the Unions, has made a major call to the United States people that in this era of surpluses we focus on saving surpluses to meet our Social Security and Medicare challenges, and in particular, in this last State of the Union, focusing on paying down our national debt in a way that would help us strengthen the solvency of Medicare and Social Security.

To the extent that the Republicans are joining the President's call for setting aside a significant amount of the surplus for debt reduction, we welcome their joining the President on this focus on debt reduction. We find that to be welcome news. However, there are serious questions that remain.

First, as of this moment, there has been no commitment that we have seen that any of the benefits of this debt reduction

would actually flow to strengthening the solvency of Social Security. The President's plan has been scored by the independent actuary of Social Security as extending solvency to 2055, even if it relied solely on debt reduction until 2049. As of this moment, we have not heard really any word from the Republicans that any of the benefits of debt reduction would go to strengthening the solvency of Social Security. And that is a serious question that needs to be examined and discussed.

Certainly, debt reduction is very good for our economy, increasing savings, increasing growth, giving us greater cushion to handle what may come down the road. But to the degree that it makes room -- greater room for us to handle challenges in the future, we want to lock in that some of those benefits from debt reduction would go to Social Security and Medicare. So far, the Republicans remain silent on giving any assurances in this area.

Secondly is the issue of Medicare. The framework that is being outlined says that all of the so-called off-budget surpluses, the surplus is coming from Social Security, should be set aside. They suggest that for over 10 years. We for over 15 years lock in an amount that is actually equal to more than that off-budget surplus for Social Security. So ours is a guarantee over 15 years for an amount that is more than is -- about \$60 billion more than the off-budget surplus.

In addition to that, however, the President allocates \$686 billion for strengthening the solvency of Medicare until the year 2020. As we said, our preference is to use those surplus funds in combination with real Medicare reforms that would make the program more modern and competitive and allow for prescription drug benefit. But we are adamant that we need to have 15 percent of the surplus set aside for Medicare.

Right now, with the Republican framework of having the so-called on-budget surpluses, the surpluses that do not involve any of the Social Security payroll taxes -- with all of that going to tax cuts, that leaves nothing so far for Medicare, even though we know that the Medicare trust fund will go -- become insolvent in 2008, just nine years from now.

Now, clearly, we need to have reforms in Medicare, but no one should be allowed to believe that we could extend the solvency of Medicare until 2020 without any of the surplus being set aside. It would require virtually 20 years in a row of Medicare growth per person at 2.8 percent, less than half of the growth in the private sector, almost below the inflation growth. It would require almost 40 percent less than projections. Clearly, this is not plausible, and it's hard to think of something that would be more irresponsible, fiscal policy, than for us to look at an over \$4.5 trillion surplus over the next 15 years and allow all of that to be committed to other things when we know Medicare is running out of money by the year 2008.

So, again, the cupboard remains bare for Medicare in the Republican budget and the silence on setting aside the surplus for Medicare needs to end.

Related to that is the question about their tax cuts. If you look at the Congressional Budget Office numbers, there is

not any significant on-budget funds until 2002. That provides concerns that if the Republicans are calling for significant tax cuts in the year 2000, we would be very concerned if they would be resorting to gimmicky tax cuts that would be designed simply to bring in funds simply to meet a gap. We don't need that kind of gimmick. And so this is one of the things that I think everyone should be looking out for. It is clear under their framework that they cannot afford any significant real tax cut until 2002. And so anything that comes before that should get the closest scrutiny from all policymakers.

But perhaps more concern is that if the commitment to having all of the on-budget surpluses, if that is their commitment, as has been expressed at times, goes to tax cuts of some form, that would lead to draining away funds of as much as \$250 billion to \$300 billion a year in the 10th through 15th year of the budget. That is money of which significant amounts need to be allocated toward Medicare. We, right now, allocate \$686 billion towards Medicare. That comes out to about \$350 billion in the first 10 years and \$335 billion in the last five years. Again, if all of the additional funds are going to the tax cuts, where is there any resources to insure that the solvency of Medicare can remain strong, and that there's a possibility of having real reforms that include prescription drugs?

Finally, the fourth serious concern goes to the discretionary budget. If again, the commitment is that all the on-budget surpluses go simply to tax cuts, one has to struggle to imagine how they can put together a discretionary budget over the next five years. It seems that already there's commitments to having an additional \$15 to \$20 to \$25 billion for defense. That would have to be made up, then, in the out-years with that equivalent amount of cuts, and -- on the discretionary side.

And Senator Domenici has talked about even having special education increases. If this is the case, it's going to be very hard to imagine how they are going to put together a budget over the next five years that deals with health care, research, crime, environment, other areas of education, without significant reductions.

So, summing up, we applaud the degree that they have joined the President's call for saving a significant amount of the surplus. I think this shows how much the President has defined the fiscal agenda over the next two years, for the need for saving, for debt reduction, for putting our country in a position to meet the retirement challenge of Social Security and Medicare in the future. But we have serious questions as to whether any of the debt reduction benefits will be allocated to Social Security, whether there's any funds for Medicare or not, whether the tax cuts in the out-year will compete and drain away the funds needed for Medicare, and how they can put together discretionary budget under their outline that does not lead to serious reductions in key areas -- in health care, education, environment and fighting crime.

Q So where do you go from here? Is there room for compromise or is this a no-win situation?

MR. SPERLING: Oh, there's no question that we should

be able to work in a bipartisan way to meet these challenges. Again, many of the Republican leaders have joined the President calling for 62 percent of the surplus to be reserved in some form for Social Security -- we just haven't actually seen a commitment on how that would be done.

We've seen now some suggesting that it would go to debt reduction, as the President suggests, but, again, their silence as to how any of the benefits of debt reduction would actually go to strengthening Social Security.

Q More specifically, if the Republicans meet the administration's proposal on Social Security, and are dedicating enough to paying down the debt, are you saying that there's no room -- are you ruling out negotiation over Medicare so that they can try to make good on their pledged proposals of tax cuts?

MR. SPERLING: No, what we've been calling for is to reserve 77 percent of the surplus for Social Security and Medicare. That clearly allows for substantial funds to be available and to be discussed as to how they should be allocated among tax cuts -- whether it's our USA account or other tax cuts they're proposing -- military readiness, and key issues like education, discretionary spending.

It just seems to us, as a basic test of fiscal responsibility, that you first need to set aside enough to meet your existing gap in Medicare and Social Security, which we believe is 77 percent of the surplus, before one goes on to doing whatever spending or tax initiatives anyone might prefer. First you do what you have to do before what you want to do. First things first. And when you have a foreseeable, clear Social Security and Medicare challenge coming down the road, we're saying you should be allocating 77 percent of the surplus over the next 15 years for Medicare and Social Security.

It's amazing that we have not heard a single word of agreement from the Republicans that they want to set aside any of the surplus for Medicare. I would remind you that Chairman Domenici last year spoke of Medicare first, and suggested that tobacco revenues should go first to Medicare. Chairman Domenici is one of the great fiscal leaders over the last 15 years, and I think that, to be consistent with that commitment, he and others should join us in calling for both setting aside 15 percent of the surplus for Medicare, and doing that in the context of important reforms that would modernize Medicare and allow room for prescription drugs.

Q Gene, Republicans and even some Democrats have said that they don't trust the President on the issue of Social Security, and they've demanded that he come forth with a plan for the reforms that will include the tough choices that will need to be made. I'm wondering what is the rationale for the President not coming forward with a plan?

□,

MR. SPERLING: Well, as you recall, many people suggested that the President come forward, we just would like you to come forward. So the President came forward at the State of

the Union -- to the surprise of some, not to us -- with a bold framework for allocating the surplus for Medicare and Social Security. And so far we have not seen anyone come forward with the type of commitment he has.

The President has a plan that has been scored at getting to 2055, to extending Social Security solvency to 2055. The President was very clear in the State of the Union that to get to the 75-year solvency there would need to be a bipartisan process that would require both sides get together and make some tough-minded choices.

Now, let me be clear. I am not necessarily recommending that either side should go out alone on some of the more tougher controversial choices that could end up politicizing the debate. I think in the past things have worked better when there's been a process where people could agree together in a bipartisan way on some of the tougher choices.

However, a threshold matter should be that we should be at least setting aside enough of our surpluses to make reform viable in both Social Security and Medicare. And I do think that we are still waiting to hear from the Republicans that some of the \$4.5 trillion in surpluses over the next 15 years should be set aside for one of the nation's most important programs that we know is running out of funds by the year 2008.

Q Aren't you at some point, if you've set aside 77 percent, shifting some money from general revenues to trust funds that are supposed to be paid for by the payroll tax? And are you allowed to do that?

MR. SPERLING: First of all, by paying down our national debt to the degree the President is, the President will be dramatically reducing the net interest cost that our government pays out. That will be freeing up additional general revenues for decades that can be used.

What we're arguing is that we are one nation, we have a large expected surplus over the next 15 years, and yet, we have a large Medicare and Social Security gap over the next 50 or 75 years. It just is basic common fiscal sense that we should seek to set aside, at least for a one-time measure, some of those surpluses so that we can meet a future challenge.

And I think that that basic notion of saving these surpluses, as opposed to consuming them, so that there is less burden the next generation to meet the retirement challenge is very cons

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 5-MAR-1999 18:38:56.00

SUBJECT: combined version

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

READ:UNKNOWN

CC: Mary L. Smith (CN=Mary L. Smith/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

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

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

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6. FOOD SAFETY

A. Congressional Action on Food Safety:

Our major objective over the next several months will be to re-affirm the Administration's position as the leader in the fight for better regulation of food and place opponents in the spotlight for being against needed measures. We intend to highlight our pro-consumer position by supporting our food safety budget initiative, and pushing two legislative measures which will increase USDA's authority to regulate unsafe food production and provide better oversight of imported food.

I. Legislative Status: The food safety budget will be the subject of congressional hearings beginning in mid-March. The SAFER Meat and Poultry Act, which gives USDA the ability to recall products and impose civil fines, is included in the Senate Democratic Leadership package. Senator Harkin has the lead. Our bill to give FDA greater authority to halt food imports from countries that do not have adequate food safety inspection systems has been the subject of interest to Senator Collins, a key Committee chair. She has told the FDA that she would push for a compromise bill if the Administration agreed to support it. We have not responded to her. If we agree, the bill could well pass. If we do not, the bill is unlikely to leave committee.

II. Presidential Actions:

We are exploring events with new technologies in the food safety area that highlight the need for investments in prevention and surveillance. In addition, the July 4th radio address is an excellent opportunity to urge passage of our budget request and food safety legislation.

III. Republican Agenda: Republicans in the past have opposed new spending in this area and our legislation to give agencies greater authority. Last year we were able to obtain most of our requested initiative funding following a Senate floor battle. We will likely have a similar dispute this year. On the imported food legislation, Senator Collins has held hearings on the problem and will likely continue to work on the issue seeking a bipartisan compromise. Republicans have indicated that under the Administration bill they are worried that farmers in the U.S. will be faced with new regulations.

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

TEXT:

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5 Mar 1999 18:38:38 EST

Received: from storm.eop.gov by PMDF.EOP.GOV (PMDF V5.1-9 #29131)
with ESMTTP id <01J8HBXFG00000313B@PMDF.EOP.GOV> for Freedman_T@a1.eop.gov;
Fri, 05 Mar 1999 18:38:27 -0500 (EST)

Received: from hqmail.usda.gov ([199.128.3.90])
by EOP.GOV (PMDF V5.2-29 #34437) with ESMTTP id <01J8HBWQAVNU0023RY@EOP.GOV>
for Freedman_T@a1.eop.gov; Fri, 05 Mar 1999 18:37:52 -0500 (EST)

Received: (from x400@localhost) by hqmail.usda.gov (8.8.6 (PHNE_14041)/8.7.3)
id SAA23869; Fri, 05 Mar 1999 18:35:45 -0500 (EST)

Received: by ATTMAIL; Fri, 05 Mar 1999 18:36:00 -0500

Content-identifier: Food Safety - Po

X-Mailer: Worldtalk (NetJunction 4.6-p2)/MIME

Original-encoded-information-types: IA5-Text

Priority: 3

X400-MTS-identifier: [/P=GOV+USDA/A=ATTMAIL/C=US/;36E06A92.0DE9.20E9.000]

X-Priority: 3

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 5-MAR-1999 18:47:42.00

SUBJECT: Food Safety - Possible Announcement by a Principal

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

CC: Mary L. Smith (CN=Mary L. Smith/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

The attached is agenciiese for they have some good numbers on salmonella and they want to do the announcement themselves. I think the Council should do it along with our document replying to the NAS perhaps.

----- Forwarded by Thomas L. Freedman/OPD/EOP on 03/05/99

06:43 PM -----

Caren.Wilcox @ usda.gov

03/05/99 06:36:00 PM

Record Type: Record

To: Thomas L. Freedman

cc:

Subject: Food Safety - Possible Announcement by a Principal

As you know the President's FSI supported development of the FoodNet system, and it completed its third year of surveillance in 1998. (FSIS contributed funding and some technical support to CDC for this effort.)

We are pleased that CDC has informed us that they wish to make a joint press release with Food Safety of USDA next week to announce comparisons of food borne illness data from five original FoodNet sites over a three year period.

They will report a significant decrease in bacterial pathogen specific rates in cases of infection caused by Salmonella, and a pronounced drop for serotype Enteritidis. They will also show a decline in rates of infection from Campylobacter.

Results for some other pathogens are either unchanged over the three year period, or in some cases there are increases.

We understand that CDC will probably attribute the decline to several causes, among them FSIS' Pathogen Reduction Program and HACCP implementation, because these programs include production process controls, standard sanitation procedures and USDA and plant microbial testing which is designed to reduce

food borne illness in food processing plants.

The Under Secretary for Food Safety (USDA), Cathie Woteki, FDA Commissioner Henney and CDC Director Koplan will testify at the Senate Appropriations hearing on food safety * concentrating on the President's initiative * the week following this joint announcement (March 16.)

We believe this announcement may be an opportunity for the President to highlight the cooperative effort, solid results emanating from his initiative and future directions for food safety.

I tried today to contact Jim O'Hara at HHS, but was unable to reach him. FSIS and CDC public affairs staffs are discussing the joint release.

Please let me know what you think about involvement from your perspective.

Caren Wilcox
Deputy Under Secretary for Food Safety
USDA
202 720 0350/ fax 202 690 0820

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

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Received: from hqmail.usda.gov ([199.128.3.90]) by EOP.GOV (PMDF V5.2-29 #34437) with ESMTTP id <01J8HBWQAVNU0023RY@EOP.GOV> for Freedman_T@a1.eop.gov; Fri, 05 Mar 1999 18:37:52 -0500 (EST)

Received: (from x400@localhost) by hqmail.usda.gov (8.8.6 (PHNE_14041)/8.7.3)
id SAA23869; Fri, 05 Mar 1999 18:35:45 -0500 (EST)
Received: by ATTMAIL; Fri, 05 Mar 1999 18:36:00 -0500
Content-identifier: Food Safety - Po
X-Mailer: Worldtalk (NetJunction 4.6-p2)/MIME
Original-encoded-information-types: IA5-Text
Priority: 3
X400-MTS-identifier: [/P=GOV+USDA/A=ATTMAIL/C=US/;36E06A92.0DE9.20E9.000]
X-Priority: 3
===== END ATTACHMENT 1 =====

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Martha Foley (CN=Martha Foley/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 5-MAR-1999 19:27:42.00

SUBJECT:

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

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

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

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

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

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

CC: Robert L. Nabors (CN=Robert L. Nabors/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

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

TEXT:

After talking to several of Gephardt's people, I talked with Larry S. at some length about a Monday mtg on the House side. Larry and I think at this point that we should try to work this inside Appropriations and hold off on the House meeting. Can discuss on Monday call or sooner if anyone wants...

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 5-MAR-1999 19:31:35.00

SUBJECT: Civil Rights Coordinating Council

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

READ:UNKNOWN

TEXT:

Clara Shin held a meeting of the council this afternoon in which she handed out a piece of paper which listed Counsel's Office as lead on CRA; Counsel's office as lead on Education; and Counsel's office as lead on wage gap and hate crimes. We were listed as second or not as all. I made it clear to Clara at the meeting, that we (DPC) were not comfortable establishing new processes for something on which we have been the lead traditionally. I assume of course, that this is our position. However, Clara indicated that you had implied that it was OK that Counsel be the lead on these issues. I think there is some confusion, and I believe it would be useful if you could let Clara or Maria know, we will continue to serve as both long range and short term leads on these issues, although of course we will be happy to provide the Council with updates.

Please advise.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jonathan H. Schnur (CN=Jonathan H. Schnur/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 5-MAR-1999 19:35:53.00

SUBJECT: VP on class size Monday

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

CC: Tanya E. Martin (CN=Tanya E. Martin/OU=OPD/O=EOP @ EOP [OPD])

READ:UNKNOWN

TEXT:

With the cloture vote Monday at 5pm, we are trying to see if we can get time on the VP's schedule to come out and make a statement on the importance of the vote sometime on Monday. While Pat Ewing and I are checking on these issues within OVP, I wanted to make sure you 1) still agree that this makes sense, and 2) see if you had a view on which option makes the most sense:

a) The VP could make a statement somewhere in the White House-- Pat Ewing was musing about the idea of him going to the briefing room.

b) The VP could go to the hill. Kennedy, Murray, and Daschle are meeting with the education groups at 1:30pm, and Murray's office raised the idea with Broderick of the VP going to this meeting. The debate on the class size amendment would then begin at 3pm. Before proceeding down this path, Broderick would want to check with Daschle's people, and I'd want to check with Ron on feasibility and desirability for the VP.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Karen Tramontano (CN=Karen Tramontano/OU=WHO/O=EOP [WHO])

CREATION DATE/TIME: 5-MAR-1999 19:46:51.00

SUBJECT: Format

TO: Sylvia M. Mathews (CN=Sylvia M. Mathews/OU=OMB/O=EOP @ EOP [OMB])
READ:UNKNOWN

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

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

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

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

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

TO: George T. Frampton (CN=George T. Frampton/OU=CEQ/O=EOP @ EOP [CEQ])
READ:UNKNOWN

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

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

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

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

TO: Gene B. Sperling (CN=Gene B. Sperling/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

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

TO: Wesley P. Warren (CN=Wesley P. Warren/OU=CEQ/O=EOP @ EOP [CEQ])
READ:UNKNOWN

TO: Neal Lane (CN=Neal Lane/OU=OSTP/O=EOP @ EOP [OSTP])
READ:UNKNOWN

TEXT:

I hope this document proves to be helpful and useful. Thank you, again for the work-products you provided -- they were helpful to us. Please call me with any questions, thoughts or advice.===== ATTACHMENT 1 =
ATT CREATION TIME/DATE: 0 00:00:00.00

TEXT:

TO: POLICY COUNCILS

FROM: DOUG SOSNIK
KAREN TRAMONTANO
TOM FREEDMAN

DATE: March 5, 1999

SUBJECT: Long-Term Strategy Memorandums

Thank you for the initial survey of important issues in your area and their current status.

We would like you to build upon what you have given us and construct a strategic plan for the next six months for each of the major policy areas within your Council. The purpose of the strategic plan is, for each major issue area, to describe our goals, our best vehicles and initiatives, the optimal timing and legislative/political context for advancing our initiatives, what opposition we will face, and how we will overcome that opposition. What follows is:

- A. A list of the major policy areas and designated Council(s) to take the lead in drafting the strategic plan;
- B. A schedule for your reference of the four major time periods over the next six months;
- C. Formats for two submissions: (1) issue-oriented strategic plans in the major policy areas of your councils and (2) a list of significant upcoming challenges that will require Administration responses;
- D. Executive actions or other non-legislative actions the President can take regarding policy initiatives within or outside of the major policy areas.

Thank you for your hard work on this project, we are confident that it will result in an excellent tool for constructing a successful strategy for the next six months.

A. Thematic Topics and Lead Policy Councils

- A. Social Security/Medicare -- NEC/DPC
- B. Economy/Budget/Taxes -- NEC
- C. Crime -- DPC
- D. Education -- DPC/NEC
- E. Environment -- CEQ
- F. Health -- DPC
- G. Strong America -- NSC
- H. Other Priorities (initiatives that do not logically fit in the above areas but you feel are important).

B. Time Periods and Issue Context.

For your reference, we have broken down the next six months into four major time periods, each of which has had its own distinct thematic rhythm in the past.

- I. March thru April 4 (Easter)
- II. April 4 to May 31 (Memorial Day)
- III. June 1 to July 4th (recess)
- IV. July 4th thru August (recess)

C. Suggested Formats for Submission

(1). Format for Strategic Plans

[The goal of the plans is to concisely lay out what we want to accomplish, what opposition we will face, the context of our challenge, how we will achieve our goals, and an explanation of the best timetable for our actions.]

The plans should be formatted in the following manner:

I. General Policy Area (Crime)

(General goals for the issue area including brief description of what we have accomplished and what we seek to accomplish over the next 6 months).

A. Specific Agenda Item, such as the Crime Bill. Please limit plans to only major agenda items. Describe proposal very briefly (e.g. legislation to add an additional 100,000 police officers and ...).

B. Possible Presidential Actions (announcements, Executive Orders, studies, events.)

C. Republican agenda and likely response.

D. Timing and Strategy. Describe when we should act and why. Include important deadlines or events for the initiative. In considering the timing please describe legislative status (hearing or markups in the next six months), consider the general political context, indicate significant related events (e.g., the ending of the school year for an education roll-out, a significant anniversary), and concisely explain how the strategy will enable us to achieve our goal. In laying out your plan, please consider how your plan will build over time or indicate the series of steps that you want to take to reach a successful conclusion.

(2) Format for Submissions for Challenges that Require Administration Response

[As we discussed in our meeting this week, we expect a number of significant issues will present challenges to the administration between now and August. Some of the ones we discussed are: Military Readiness; NATO; The G8 ,including financial architecture; Tongas Management Plan; The Census; Israel; China/MFN; Renewal of the Haze Rule and Ireland. We ask that you review your list of challenges (which may include some of the ones listed above) and within the suggested format set out below, develop a strategy for an appropriate response.]
In your submission, please:

I. Indicate the topic of the challenge and briefly describe it.

A. Timing. Explain when the issue is likely to come to the forefront and why.

B. Responses. Describe what the Administration response should be and what preparation is required to be ready for an appropriate response.

C. Presidential Action. Indicate whether a Presidential action will be required, what it is likely to be (statement, etc), and its probable timing.

D. List of Executive of Actions

Anticipating that the Congress may not be in a position to enact legislation, we also ask that you outline possible unilateral Presidential announcements or executive orders, including those that may fall outside the scope of major policy areas. Also, include the dates when you believe the administrative action can be taken. Our objective is to have a set of administrative announcements that are prepared or will be prepared for a date certain. Please list the action, the background, the date when it will be ready and when (optimally) used, an assessment of its priority, and any reasons it should not be used.

If you have any questions, contact Karen Tramontano at x61987. Please submit paper to her by COB Tuesday.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Devorah R. Adler (CN=Devorah R. Adler/OU=OPD/O=EOP [OPD])

CREATION DATE/TIME: 5-MAR-1999 21:07:50.00

SUBJECT: new weekly items

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

CC: Sarah A. Bianchi (CN=Sarah A. Bianchi/O=OVP @ OVP [UNKNOWN])
READ:UNKNOWN

CC: Jeanne Lambrew (CN=Jeanne Lambrew/OU=OPD/O=EOP @ EOP [OPD])
READ:UNKNOWN

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

TEXT:
Elena --

Attached are our weekly submissions, with new ones on the Medicare Commission and the Vice President's PBOR event scheduled for Tuesday.

Chris asked me to point out that the dates on the OTC and the Genetic Discrimination events have changed -- OTC isn't until Thursday of next week and genetics has moved to the week of the 15th.

Please call with questions. Thanks.

Devorah

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

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Release of new regulation to promote the safe and effective use of over-the-counter drug products. Next Thursday, the White House will unveil a new FDA regulation requiring over the counter drug products to use a standardized format with larger print that makes it easier for consumers to understand product warnings and comply with dosage guidance. The Vice President will join Secretary Shalala and FDA Commissioner Henney in announcing that the regulation has been put on display. This action will be widely heralded by consumer representatives, physician and other provider groups, and even by product manufacturers. Studies indicate that parents often have difficulty determining the correct dosage of over-the-counter medications, and that many of the elderly, who take significantly more over-the-counter drugs than the rest of the population, have difficulty reading the small type on the product labels. This new regulation represents a critical first step towards preventing the thousands of unnecessary hospitalizations caused by misuse of over the counter medications each year.

Signing of Executive Order on Genetic Discrimination. You are tentatively scheduled to sign a new executive order the week of March 15 directing Federal agencies to take all necessary action to guard against employment discrimination in Federal hiring practices through the inappropriate use of genetic information. The prohibition against using genetic information to inappropriately deny individuals access to health insurance coverage for Federal employees and many (but not all) of the insured population was effectively applied when you signed Kennedy-Kassenbaum into law in 1996. We currently plan to unveil your EO in an event with the Vice President and a bipartisan group of members who are supporting Federal legislation to apply these protections to all employers and insurers.

Medicare Commission Update. As you saw from your Thursday meeting, the base Democrats are solidifying their position of opposition to virtually anything the Medicare Commission produces. Senator Kennedy, Senator Rockefeller, Congressman Dingell, and Congressman McDermott were all quite pleased with the meeting, particularly with your understanding of the weaknesses of the current Commission plan and your commitment to keep them informed about any movement towards an alternative Administration proposal. On Friday, Laura Tyson and Stuart Altman participated in another meeting with Senator Breaux, Congressman Thomas, and a number of other Republicans to discuss compromise options. It now seems likely that it will be impossible to reach complete agreement on the details of any plan. As such, Senator Breaux and Congressman Thomas are trying to convince Stuart and Laura to join them in voting for a report, which is now expected to take place on March 15, that suggests agreement on general provisions. Recognizing that such an approach could be misused and mischaracterized as an implicit endorsement of subsequently flawed legislation, Laura and Stuart have rejected this alternative. However, they are considering two other options. The first would be to agree to vote for the Commission recommendations, (which makes it possible for the Commission to achieve the necessary 11 votes to report out their proposal), in return for being able to include in the report their detailed objections and recommendations to make the plan acceptable. The second option would be to vote against the Commission recommendation, but issue a joint public statement (because Commission rules do not allow for minority views) that explains why the two of them chose not to support the proposal and that provides the outlines of an approach that they believe is desirable. Laura (and to some extent Stuart) are leaning towards the first option; they believe that this option may be more likely to provide momentum for Medicare reform -- their number

one priority. The major argument against option one in their minds is that the headline coming out of the vote will be a misleading and incomplete "Bipartisan Commission Votes out Premium Support and Other Controversial Medicare Reforms." Laura and Stuart have not made any final decisions. The details on the underlying plan are not satisfactory to make them comfortable enough doing so. They both have indicated, however, their desire to learn about your feelings on this matter. We will keep you posted of developments.

Patients Bill of Rights Update. On Tuesday, the Vice President will participate in an event on the Hill with the Democratic leadership to highlight the Daschle-Kennedy-Gephardt-Dingell Patients Bill of Rights. The Democrats want to make certain that the Administration helps them define this issue as a Democratic priority which Republicans may only support after a relentless advocacy campaign. The theme of this event will once again be the need for a strong and enforceable Patients Bill of Rights that distinguishes itself from the approach that the Republican leadership has taken to date. We do believe, however, that we need to follow up this event with some of the Republican mavericks in the House and Senate who are supporting similarly strong bills. We anticipate being able to do so within the next two weeks, and will keep you posted on development.