

**NLWJC - KAGAN**

**EMAILS RECEIVED**

**ARMS - BOX 057 - FOLDER -007**

**[02/07/1997-02/12/1997]**

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Kevin M. O'Keefe ( CN=Kevin M. O'Keefe/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 7-FEB-1997 09:19:56.00

SUBJECT: Re: Toledo jeep

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

READ:UNKNOWN

TEXT:

Okay but should it be Domestic Policy or NEC, tell me what you think, in the meantime I will write Kathy

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sara M. Latham ( CN=Sara M. Latham/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 7-FEB-1997 11:07:12.00

SUBJECT: AFL LA trip mtg

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

READ:UNKNOWN

TEXT:

could you come to a 12:30pm mtg in John Podesta's office - today.....to discuss the trip, the VP's speech, etc.....

Sara - 64514



February 7, 1996  
DRAFT

MEMORANDUM FOR THE SECRETARY OF HEALTH AND HUMAN SERVICES  
THE SECRETARY OF ....

FROM: BRUCE REED  
Assistant to the President for Domestic Policy

SUBJECT: Formation of Interagency Working Group on Early Childhood Development

As the President announced in his State of the Union Address, he and the First Lady will hold a White House Conference on Early Learning and the Brain this Spring, and the Administration will be accelerating its efforts focusing on the earliest years of a child's life before she or he starts school. Recent brain research, funded in large part by the National Institutes of Health, indicating the importance of these early years has potential policy implications in areas such as education, health, nutrition, work, and transportation.

Before, during, and after the White House conference, the Administration will be highlighting ongoing and new initiatives to support families and children during these critical, early years. To this end, the President will be issuing an executive memorandum to identify the Administration's accomplishments and current and potential plans to support further healthy early childhood development. This memorandum will also call for the formation of a senior level interagency working group to share, examine, and develop plans and proposals. Attached is a draft of this memorandum.

We will hold the first meeting of this working group next Thursday, February 13, from 1:30-2:30 p.m. in Room 180 of the Old Executive Office Building. Please designate a Presidential appointee to join this working group and to attend this meeting. Because the President will formally issue the executive memorandum within days after this meeting, your designee should provide comments on the memorandum before or at the meeting. In addition, designees should bring with them a list of the top five programs or initiatives the agency would like to highlight. Given the Administration's firm commitment to balancing the budget and fiscal discipline, please indicate what, if any, additional funds would be required by these initiatives.

Feel free to contact me directly with any questions or have your staff contact Jeanine Smartt at the Domestic Policy Council (202) 456-5228.

Attachment

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 7-FEB-1997 14:03:23.00

SUBJECT: HHS adoption report

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

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

TO: Pauline M. Abernathy ( CN=Pauline M. Abernathy/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:

I talked to Carol Williams and then to Olivia's office about our "where the hell is the draft report" concern, and here's their story: they are finishing the writing of the report as we speak, and want to incorporate comments from their internal clearance process (which they will initiate as soon as the drafting concludes) before sharing it with us so that what we work off of is a concensus HHS document. They want to defer sharing a draft with us until Monday, suggesting that we meet on Tuesday, at which point all WH comments could be taken, discussed and incorporated as appropriate.

I asked about the likelihood that the promise of Monday becomes a promise of Tuesday, and so on, and was assured that Monday was a firm date. I suggested that we may want something by COB today, and Carol said that Bruce/Elena would have to take that up with Olivia. I then raised with Carol my concern that, above all, OMB (Lester Cash) must be in the loop on the development of the bonus proposal, and Carol said that Lester and Matthew in OMB have been engaged. I have since spoken with Lester directly, who said that, having seen some preliminary paper and having been a part of discussions with HHS OMB, they feel okay about the direction of bonus proposal and that if what they have heard is reflected in the draft we receive, Monday would give them enough time to turn things around in OMB. He and I talked through his understanding of the bonus proposal, and I think that we at the WH will have to have a serious discussion about the structure of the bonus, focusing on how much we should enhance the bonus for the adoptions of hard-to-place kids (HHS, as they mentioned when they briefed us, were cautioned during their consultation process not to promote "creaming" of easy-to-place kids with the bonus, i.e. to pay particular attention to special needs kids). This is one of a number of issues we will need to discuss.

My recommendation is for Elena to call Olivia to express our concern that the White House has enough time to consider/analyze their report and comment appropriately before the report is due and transmitted. Perhaps Elena could ask for 2 things:

1. a firm time on Monday when we can expect the draft report
2. excerpts from the draft paper or a memo from Carol or Olivia to her by COB today that outlines what HHS is going to propose on the four areas on

which there was no specific policy direction given at our last meeting. Those four areas are: 1) the bonus proposal; 2) the setting of the target -- is it going to be time-specific; 3) the strategy for MEPA "aggressive implementation -- is HHS going to issue guidelines or exact penalties for lack of adhering to statute; and 4) the structure of the grants for TA for "removing barriers."

Please advise.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sara M. Latham ( CN=Sara M. Latham/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 7-FEB-1997 15:03:58.00

SUBJECT:

TO: ELENA (Pager) #KAGAN ( ELENA (Pager) #KAGAN [ UNKNOWN ] )

READ:UNKNOWN

TEXT:

pls come to USSS mtg in Erskine's ofc, 3:00p

RECORD TYPE: PRESIDENTIAL (EXTERNAL MAIL)

CREATOR: JOConnor@dol.gov@INET@EOPMRX

CREATION DATE/TIME: 7-FEB-1997 15:10:00.00

SUBJECT: comp time decision memo -- wordperfect

TO: blocker Andy ( blocker\_a@A1@CD ) (WHO)
READ:NOT READ

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

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

TO: Thornton Tracey ( thornton\_tracey@A1@CD )
READ:NOT READ

TO: Wallman Kathy ( wallman\_k@A1@CD ) (OMB)
READ:10-FEB-1997 11:56:09.37

TEXT:

[[ comp2 : 3930 in comp2. ]]

<WP Attachment Enclosed>

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

ATT CREATION TIME/DATE: 7-FEB-1997 15:10:00.00

ATT BODYPART TYPE:p

TEXT:

Unable to convert OA\$SHARA2198:ZWRVLORUF.FGN to ASCII,
The following is a HEX DUMP:

FF5750436606000010A0A0100000000FBFF050032000E01000003000A0A420000000F00560000
0054000000070016000000AA000000FFFF0A0A04010000D00606000100060006D0772020285454
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0000010000010F0000000504C4153342E575253005300DB017800141E0C0A178C0A0A041140C900
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EF3D000000000000AC02E0110C0A0B0A3248E73500000200010F000100000002000000C02206C0
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===== END ATTACHMENT 1 =====

===== ATTACHMENT 2 =====

ATT CREATION TIME/DATE: 7-FEB-1997 15:10:00.00

ATT BODYPART TYPE:D

TEXT:

RFC-822-headers:

# **Clinton Presidential Records Automated Records Management System [EMAIL]**

This is not a presidential record. This is used as an administrative marker by the William J. Clinton Presidential Library Staff.

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**Hex Dump file is not in a recognizable format, has been incorrectly decoded or is damaged.**

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**File Name:** p\_euro1vrw\_who.html

**Attachment Number:** OA\$SHARA2198:ZWRVLORUF.FGN

RECORD TYPE: PRESIDENTIAL (EXTERNAL MAIL)

CREATOR: JOConnor@dol.gov@INET@EOPMRX

CREATION DATE/TIME: 7-FEB-1997 15:10:00.00

SUBJECT: Comp time decision memo

TO: blocker Andy ( blocker\_a@A1@CD ) (WHO)  
READ:NOT READ

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

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

TO: Thornton Tracey ( thornton\_tracey@A1@CD )  
READ:NOT READ

TO: Wallman Kathy ( wallman\_k@A1@CD ) (OMB)  
READ:10-FEB-1997 11:55:15.14

TEXT:

Date

MEMORANDUM FOR THE PRESIDENT

FROM: JOHN HILLEY & GENE SPERLING

SUBJECT: COMP TIME/ FAMILY MEDICAL LEAVE ACT LEGISLATION

I. BACKGROUND/ANALYSIS

This memorandum offers options for how to achieve the optimal outcome from the current legislative debate on comp time and expansion of the Family and Medical Leave Act (FMLA).

This week and next week, the House and Senate labor committees are holding hearings regarding comp time legislation: the Ballenger bill in the House and the Ashcroft bill in the Senate. Both bills address only comp time and not FMLA expansion, and they provide fewer guarantees of employee choice and fewer protections against potential abuse than your bill, which was sent to Congress last September. For example, the Republican bills:

- 1) Do not exclude vulnerable workers;
- 2) Do not include special protections for workers whose employers go bankrupt or shut down unexpectedly;
- 3) Do not guarantee real choice for employees because they allow employers to refuse employees+ use of comp time if it would unduly disrupt operations. (Your bill, on the other hand, allowed employees to

take comp time for FMLA purposes at any time, and to take it for other purposes with two weeks notice unless it would cause the employer substantial and grievous injury. );

4) Allow employers to cash out employees+ comp time over 80 hours, thereby denying them the use of comp time;

5) Provide weaker remedies for violations. Your bill has solutions to all of these problems.

In addition, the Ashcroft bill has additional provisions that would effectively eliminate the 40 hour week by allowing employers to establish 80 hour biweekly schedules and, in certain circumstances, to pay employees straight time, not time and a half, for hours worked over 40 in a week or 80 in two weeks. Sen. Jeffords plans to mark up the Ashcroft bill on February 26, and Rep. Ballenger plans to mark up his bill in early March.

Senator Dodd, Sen. Murray, Rep. Clay, and Rep. Maloney have instead introduced bills to expand the FMLA. The bills introduced by Maloney and Murray would expand FMLA for an additional twenty-four hours for the purposes of routine medical care for children and elderly parents or school related activities, similar to your bill. The bills introduced by Dodd and Clay would lower the threshold of FMLA applicability from 50 employees to 25 employees, which would cover an additional 10 million employees in small businesses.

The FMLA bills have support from women+s groups and the labor movement, both of which are more enthusiastic about dropping the threshold than providing an additional 24 hours of leave. The labor movement strongly opposes the Republican comp time bills, and finds the provisions in the Ashcroft bill that eliminate the 40-hour work week to be particularly offensive. Most Republicans oppose any expansion of FMLA.

The current legislative strategy among congressional Democratic leaders is to criticize the comp time bills and try to add the various FMLA expansions to the Republican bills. Your bill has not been introduced, nor is there any Democratic version of a comp time bill. The labor movement has requested that the Administration threaten to veto any bill that doesn't 1) improve the comp time provisions to provide real choice and real protections for employees, and 2) link FMLA and comp time.

## II. ACTION-FORCING EVENT

The Vice President will be addressing the AFL-CIO at an annual meeting on

February 18 and will be forced to address these issues either in remarks or in questions and answers. Thus, a decision must be made now regarding whether to adopt a strategy of insisting on linkage between FMLA and comp time, and whether to issue any veto threats. The options are laid out below. In each case, the Vice President would articulate the Administration position on February 18 at the AFL-CIO meeting.

### III. OPTIONS

1. Threaten to veto the bill if your principles are not addressed. The Administration would lay out a set of principles needed for a bill to be truly family friendly. We would say that the bill should include FMLA expansion, and that any bill that doesn't meet certain principles will be vetoed, but we would not link a veto to FMLA expansion. These principles are embodied in your bill from last year:

A) Real Choice for Employees, including the right to take comp time when needed for FMLA purposes, the right to choose to use comp time for any purpose with two weeks notice to their employer unless use of comp time will cause substantial and grievous injury to the employer, the right to cash out comp time for overtime pay on 15 days notice and employers can't choose to cash out comp time; and

B) Real Protection Against Employer Abuse, including the various protective provisions in your bill that are not present in the Republican bills, such as exclusions for vulnerable workers, special protections in case employers go bankrupt or close down unexpectedly, a prohibition against employers substituting comp time for paid vacation or sick leave benefits, a prohibition against employers penalizing employees who choose overtime pay instead of comp time, and strong provisions for enforcement.

C) Preservation of Basic Worker Rights. The Administration would threaten a veto of any bill that eliminates the 40 hour work week, as the Ashcroft bill does.

Pros: A. Would strengthen the position of congressional Democrats arguing to improve the Republican bills. Would encourage congressional Republicans to negotiate in an effort to produce a bill that would become law.

B. If the strategy resulted in changes to the bills, it would significantly improve upon bills that presently do not carry gu

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

ATT CREATION TIME/DATE: 7-FEB-1997 15:10:00.00

ATT BODYPART TYPE:D

TEXT:

RFC-822-headers:

Received: from storm.eop.gov (storm.eop.gov)  
by PMDF.EOP.GOV (PMDF V5.0-4 #6879) id <01IF50DDM3XC00WMCG@PMDF.EOP.GOV>; Fri,  
07 Feb 1997 15:10:24 -0400 (EDT)

Received: from dol.gov (BUBBA.DOL.GOV) by STORM.EOP.GOV (PMDF V5.0-7 #6879)  
id <01IF50D3NKOI007IO2@STORM.EOP.GOV>; Fri, 07 Feb 1997 15:10:19 -0700 (MST)

Received: by dol.gov (5.x/SMI-SVR4) id AA11348; Fri, 07 Feb 1997 15:07:22 -0500

Received: from smtpgw(166.96.2.20) by gatekeeper via smap (V1.3)  
id sma011154; Fri Feb 7 15:07:03 1997

Received: by gatekeeper with Microsoft Mail id <32FB45B3@gatekeeper>; Fri,  
07 Feb 1997 15:09:39 -0500 (EST)

===== END ATTACHMENT 1 =====



February, 7, 1997

**MEMORANDUM FOR THE PRESIDENT**

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employees to 25 employees, which would cover an additional 10 million employees in small businesses.

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The current legislative strategy among congressional Democratic leaders is to criticize the comp time bills and try to add the various FMLA expansions to the Republican bills. Your bill has not been introduced, nor is there any Democratic version of a comp time bill. The labor movement has requested that the Administration threaten to veto any bill that doesn't (1) improve the comp time provisions to provide real choice and real protections for employees, and (2) link FMLA and comp time.

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  - A) **Real Choice for Employees**, including the right to take comp time when needed for FMLA purposes, the right to choose to use comp time for any purpose with two weeks notice to their employer unless use of comp time will cause substantial and grievous injury to the employer, the right to cash out comp time for overtime pay on 15 days notice and employers can't choose to cash out comp time; and
  - B) **Real Protection Against Employer Abuse**, including the various protective provisions in your bill that are not present in the Republican bills, such as exclusions for vulnerable workers, special protections in case employers go bankrupt or close down unexpectedly, a prohibition against employers' substituting comp time for paid vacation or sick leave benefits, a prohibition against employers penalizing employees who choose

overtime pay instead of comp time, and strong provisions for enforcement.

- C) **Preservation of Basic Worker Rights.** The Administration would threaten a veto of any bill that eliminates the 40 hour work week, as the Ashcroft bill does.

**Pros:** A. Would strengthen the position of congressional Democrats arguing to improve the Republican bills. Would encourage congressional Republicans to negotiate in an effort to produce a bill that would become law.

B. If the strategy resulted in changes to the bills, it would significantly improve upon bills that presently do not carry guarantees of employee choice or adequate protection against employer abuse.

C. Would be welcomed by constituency groups that view the Republican bills as a weakening of employee protection laws, and would strengthen the leadership position of Democrats on women's issues.

D. Since this strategy doesn't threaten a veto if the FMLA expansion is not in a final bill, it has the effect of assisting the Democrats who are trying to add FMLA expansion to the bills without locking you in to a veto on that specific issue.

**Con:** You might have to veto a comp time bill, although it would be one that would fall far short of the family friendly principles you have laid out.

2. **Threaten to veto a bill if your principles are not addressed AND FMLA expansion is not included.** This strategy is the same as #1 above except that a fourth veto principle would be the expansion of FMLA. The rationale is that FMLA and comp time are linked family friendly policies. Since comp time is not mandatory, the only guarantee that covered workers will have any additional leave is through FMLA expansion amendments. FMLA is one of your signature programs and this is one way to ensure its passage in a Republican Congress.

**Pros:** Same as A, B & C above. In addition, the AFL-CIO has requested this particular strategy and veto threat. Sen. Kennedy also prefers this strategy and veto threat.

**Cons:** A. Sen. Daschle is skeptical that his colleagues will support a strategy that insists on FMLA expansion as the price for any comp time bill, however strong. It is difficult to defend the logic of refusing to accept one positive change in the law merely because a second positive change has not also been made.

B. If the strategy fails to produce a bill that includes FMLA expansion, you might have to veto a very strong comp time bill just because it doesn't include FMLA expansion.

3. **Introduce principles for a family-friendly bill.** We would lay out the principles listed

Automated Records Management System  
Hex-Dump Conversion

in #1 above and would insist that they are all vital to a family friendly bill, but would not explicitly threaten a veto.

**Pros:** A. Would lay out principles for a bill without locking you in to a veto.

B. Would leave open the option of vetoing a weak comp time bill or a bill that fails to expand FMLA.

**Cons:** Not likely to produce changes to the Republican bills, thus could make it more likely that you face signing a bill that doesn't include sufficient employee choice and protections. Signing such a bill would have the dual results of significantly altering the Fair Labor Standards Act without sufficient safeguards and also seriously angering the labor movement and disappointing women's groups.

**IV. DECISION:**

Option 1 \_\_\_\_\_

Option 2 \_\_\_\_\_ Option 3 \_\_\_\_\_

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Odetta S. Walker ( CN=Odetta S. Walker/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 7-FEB-1997 16:10:44.00

SUBJECT: Briefing for Chuck Ruff

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: William P. Marshall ( CN=William P. Marshall/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TEXT:

Hey you guys,

Sorry, let's do this one more time. The briefing for Chuck Ruff re:  
religion issues will be Monday, February 10 at 1:15 pm in Ruff's office.  
Please let me know if you can not attend.

Thank you.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 7-FEB-1997 17:12:03.00

SUBJECT: Welf Privtzn/Min \$ Issues

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

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

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

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

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

CC: Dorothy K. Craft ( CN=Dorothy K. Craft/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

TEXT:

This meeting will be held in Bruce Reed's office, 2 Fl/WW. The time is unchanged.

----- Forwarded by Cathy R. Mays/OPD/EOP on 02/07/97  
05:07 PM -----

Dorothy K. Craft  
02/07/97 11:20:26 AM  
Record Type: Record

To: See the distribution list at the bottom of this message  
cc: Elena Kagan/OPD/EOP  
Subject: Welf Privtzn/Min \$ Issues

The welfare privatization and minimum wage issues meeting will be Monday,  
February 10 at 5:30 pm in OEOB 211. Thanks.

Message Sent

To: \_\_\_\_\_  
Diana Fortuna/OPD/EOP  
Cathy R. Mays/OPD/EOP  
Wendy S. White/WHO/EOP  
Melissa Green/OPD/EOP  
Jill M. Pizzuto/OMB/EOP



draft 2/7

## WH CONFERENCE ON EARLY LEARNING AND THE BRAIN PROPOSED FORMAT

The Conference is divided thematically and logistically into two parts. Consecutive panel discussions address the following themes:

### PANEL #1

A) An exploration of current scientific research, presented by leading scientists -- what do we now know about children's cognitive and emotional development during the earliest years of life?

*Participants: Leading Neuroscientists, Developmental Specialists, NIH Scientists, Leading Academic Scholars*

B) An examination of the practical applications of this research for parents -- what can parents do to enhance the development of their children in their earliest years of life, given the current research?

*Participants: parents (some on panel and others in front row) asking questions of the panel of experts and scientists as to how the research should inform their parenting. Questions by parents might include:*

- *What does this research mean I should be doing with my child?*
- *How much time should I spend reading to my child each day or week? Are some children's books better than others?*
- *What are a few things I can do with my child to ensure that my child begins school ready to learn?*

### PANEL #2

A discussion with the various sectors of society -- with the POTUS underscoring government's role and his Administration's initiatives and announcements -- exploring what the sectors are doing, what they can do, and announcements of what they pledge to do to support families and enhance early childhood development -- what can society do equip parents with current research and how can all sectors of society apply current research?

*Participants: Pediatricians, Grassroots Practitioners, Early Child Care Providers, Religious Leaders, Policy Makers, Business Leaders*

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 7-FEB-1997 18:31:52.00

SUBJECT: outrage

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

READ:UNKNOWN

TEXT:

It just occurred to me, at 6:30pm, that I had left a message for Carol Williams not long after we spoke today -- a detailed message on her voicemail -- for her to call me, that you and Olivia had spoken and agreed that a conference call would be useful to the White House to answer questions not addressed at our last meeting. She never called me back. And, needless to say, no one is there now.

What I'll do this weekend, absent a call from her, is to do a memo that outlines what I believe will be the major policy questions we will have to address if and when we receive the report from HHS. I'll leave it on your chair over the weekend.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Christa Robinson ( CN=Christa Robinson/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 8-FEB-1997 18:58:18.00

SUBJECT: FYI final version of education attachment

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

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

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

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

TEXT:

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

TEXT:

Unable to convert ARMS\_EXT: [ATTACH.D18]MAIL41038683F.016 to ASCII,  
The following is a HEX DUMP:

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200052006F006D0061006E00200052006500670075006C00610072000000000000000000000000  
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00020000002800C8196810480D000011090000005A000B010000103600540069006D0065007300

## MARYLAND EDUCATION EFFORTS

**Standards:** As a result of state education reform initiatives over the last five years, Maryland has become known for having high standards. Education Week's report card gave Maryland in Standards and Assessments a 100% rating. Part of the state's education reform efforts included developing a test called the Maryland School Performance Assessment Program (MSPAP), which measures how well students are meeting these standards by testing their reading, writing, language, math, science, and social studies skills. The Administration's proposal for national voluntary tests in reading and math is very compatible with the MSPAP.

**Charter Schools:** There are no serious charter schools bills pending in the legislature, although there are advocates for charter schools legislation in the legislature and on the State Board of Education. Chris Cross, the President of the Maryland State Board of Education and several other Board members have been attempting to promote charter schools legislation for the past year. However, this proposal ran into opposition from the Public School Superintendent's Association of Maryland and the Maryland Association of Boards of Education. A Task Force appointed by the State Board of Education concluded that local school boards already had sufficient authority to establish charter schools -- and several have been established in Baltimore City. Consequently, there are no current proposals in the legislature to authorize charter schools, though most advocates of charter schools believe legislation is needed in order to see any widespread development of new charter schools.

**Hope Scholarship:** Governor Glendening introduced legislation to create the Maryland Hope Scholarship which will provide tuition, mandatory fees, and a book allowance to students who graduate from a Maryland high school with a "B" average and whose family income is below \$60,000.

### **NOTE:**

**Baltimore City funding controversy:** The state legislature will soon have to decide whether to approve a proposed settlement of a suit brought by Baltimore against the State, alleging unlawful disparities in school financing. Under the terms of the settlement, Baltimore will receive an additional \$40 million per year from the state in each of the next five years. In exchange, Baltimore will accept a new school board, which will be jointly appointed by the Mayor of Baltimore and the Governor of Maryland from a pool of candidates recommended by the State Board of Education. Legislators from Montgomery and Prince George's Counties have objected to the proposed settlement, arguing that it gives too much money to Baltimore. It is currently impossible to predict whether the state legislature will approve the settlement.

RECORD TYPE: PRESIDENTIAL (ALL-IN-1 MAIL)

CREATOR: Dinah Bear ( BEAR\_D ) (CEQ)

CREATION DATE/TIME: 9-FEB-1997 14:03:13.72

SUBJECT: No meeting this Tuesday

TO: Kris Balderston ( BALDERSTON\_K ) Autoforward to: Remote Add  
READ:NOT READ

TO: Ron Cogswell ( COGSWELL\_R ) Autoforward to: Remote Addre  
READ:NOT READ

TO: Martha Foley ( FOLEY\_M ) (WHO)  
READ:10-FEB-1997 08:58:11.72

TO: Thomas C. Jensen ( JENSEN\_T ) Autoforward to: Remote Address  
READ:NOT READ

TO: Elena Kagan ( KAGAN\_E ) Autoforward to: Remote Adresse  
READ:NOT READ

TO: Christine L. Nolin ( NOLIN\_CL ) Autoforward to: Remote Address  
READ:NOT READ

TO: Jennifer M. O'Connor ( OCONNOR\_J )  
READ:NOT READ

TO: Ruth D. Saunders ( SAUNDERS\_R ) Autoforward to: Remote Addre  
READ:NOT READ

TO: Remote Addressee ( TLXA1MAIL\_\F:97205437\C:Anne Kennedy\\ )  
READ:NOT READ

TO: Remote Addressee ( TLXA1MAIL\_\F:95140557\C:Peter Coppelman\\ )  
READ:NOT READ

TO: FAX (9-482-6318, Doug Hall) ( TLXA1MAIL\_\F:9-482-6318\C: Doug Hall\\ )  
READ:NOT READ

TO: FAX (95640070, Richard Sanderson) ( TLXA1MAIL\_\F:95640070\C:Richard Sanderson  
READ:NOT READ

TO: FAX (96902730, Mike Gippert) ( TLXA1MAIL\_\F:96902730\C:Mike Gippert\\ )  
READ:NOT READ

TO: FAX (92083877, Bob Baum) ( TLXA1MAIL\_\F:92083877\C:Bob Baum\\ )  
READ:NOT READ

TO: FAX (92191792, Kris Clark) ( TLXA1MAIL\_\F:92191792\C:Kris Clark\\ )  
READ:NOT READ

TO: Remote Addressee ( TLXA1MAIL\_\F:97204732\C:Mark Gaede\\ )  
READ:NOT READ

TO: FAX (9-720-4732, Jim Lyons) ( TLXA1MAIL\_\F:9-720-4732\C: Jim Lyons\\ )  
READ:NOT READ

TO: FAX (9-208-6916, Gerry Jackson) ( TLXA1MAIL\_\F:9-208-6916\C:Gerry Jackson\\ )

READ:NOT READ

TO: Remote Addressee ( TLXA1MAIL\_\F:915033266254\C:Tom Tuchman\  
READ:NOT READ

TO: FAX (9-301-713-0658,Jason Patlis) ( TLXA1MAIL\_\F:9-301-713-0658\C:Jason Patli  
READ:NOT READ

TO: Remote Addressee ( TLXA1MAIL\_\F:92085242\C:Nancy Hayes\  
READ:NOT READ

TO: Mark A. Weatherly ( WEATHERLY\_M ) (OMB)  
READ:10-FEB-1997 09:58:19.36

TO: David J. Rostker ( ROSTKER\_D ) Autoforward to: Remote Address  
READ:NOT READ

TO: FAX (9-514-4231,Jeremy Heep) ( TLXA1MAIL\_\F:9-514-4231\C:Jeremy Heep\  
READ:NOT READ

TEXT:

Just a reminder that THERE WILL NOT BE A MEETING THIS TUESDAY,  
FEBRUARY 11, OF THE USUAL FORESTRY GROUP.

-----  
There will be a meeting on February 18th. At that time, among  
other items, we will review:

- o litigation report, including appellate argument in  
NFRC v. Dombeck;
- o follow-up to discussion at meeting on Pacific Northwest  
Forest Plan regarding process for setting priorities  
regarding recommendations in report to President and  
Congress on implementation of the Plan;
- o draft of USDA/DOI letter on Craig's public lands bill;
- o progress on interagency salvage report action plan;
- o organization of follow-up to Feb. 6th meeting on forest  
plans.

-----  
AGAIN, THERE WILL NOT BE A MEETING THIS TUESDAY.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: BEAR\_D@A1@CD@LNGTWY ( BEAR\_D@A1@CD@LNGTWY [ UNKNOWN ] ) (CEQ)

CREATION DATE/TIME: 9-FEB-1997 14:06:49.00

SUBJECT: No meeting this Tuesday

TO: WEATHERLY\_M@A1@CD@LNGTWY ( WEATHERLY\_M@A1@CD@LNGTWY [ EOP ] ) (OMB)  
READ:UNKNOWN

TO: TLXA1MAIL\_\F:9-301-713-0658\C:JASON PATLIS\\@A1@CD@LNGTWY ( TLXA1MAIL\_\F:9-301-7  
READ:UNKNOWN

TO: TLXA1MAIL\_\F:9-208-6916\C:GERRY JACKSON\\@A1@CD@LNGTWY ( TLXA1MAIL\_\F:9-208-6916  
READ:UNKNOWN

TO: TLXA1MAIL\_\F:97204732\C:MARK GAEDE\\@A1@CD@LNGTWY ( TLXA1MAIL\_\F:97204732\C:MARK  
READ:UNKNOWN

TO: TLXA1MAIL\_\F:92083877\C:BOB BAUM\\@A1@CD@LNGTWY ( TLXA1MAIL\_\F:92083877\C:BOB BA  
READ:UNKNOWN

TO: TLXA1MAIL\_\F:95640070\C:RICHARD SANDERSON\\@A1@CD@LNGTWY ( TLXA1MAIL\_\F:95640070  
READ:UNKNOWN

TO: TLXA1MAIL\_\F:95140557\C:PETER COPPELMAN\\@A1@CD@LNGTWY ( TLXA1MAIL\_\F:95140557\C  
READ:UNKNOWN

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

TO: Ruth D. Saunders@EOP ( Ruth D. Saunders@EOP [ OMB ] )  
READ:UNKNOWN

TO: Elena Kagan@eop ( Elena Kagan@eop [ OPD ] )  
READ:UNKNOWN

TO: Ronald M. Cogswell@eop ( Ronald M. Cogswell@eop [ OMB ] )  
READ:UNKNOWN

TO: TLXA1MAIL\_\F:9-514-4231\C:JEREMY HEEP\\@A1@CD@LNGTWY ( TLXA1MAIL\_\F:9-514-4231\C  
READ:UNKNOWN

TO: TLXA1MAIL\_\F:92085242\C:NANCY HAYES\\@A1@CD@LNGTWY ( TLXA1MAIL\_\F:92085242\C:NAN  
READ:UNKNOWN

TO: TLXA1MAIL\_\F:915033266254\C:TOM TUCHMAN\\@A1@CD@LNGTWY ( TLXA1MAIL\_\F:9150332662  
READ:UNKNOWN

TO: TLXA1MAIL\_\F:9-720-4732\C: JIM LYONS\\@A1@CD@LNGTWY ( TLXA1MAIL\_\F:9-720-4732\C:  
READ:UNKNOWN

TO: TLXA1MAIL\_\F:92191792\C:KRIS CLARK\\@A1@CD@LNGTWY ( TLXA1MAIL\_\F:92191792\C:KRIS  
READ:UNKNOWN

TO: TLXA1MAIL\_\F:96902730\C:MIKE GIPPERT\\@A1@CD@LNGTWY ( TLXA1MAIL\_\F:96902730\C:MI  
READ:UNKNOWN

TO: TLXA1MAIL\_\F:9-482-6318\C: DOUG HALL\\@A1@CD@LNGTWY ( TLXA1MAIL\_\F:9-482-6318\C:

READ:UNKNOWN

TO: TLXA1MAIL\_\F:97205437\C:ANNE KENNEDY\\@A1@CD@LNGTWY ( TLXA1MAIL\_\F:97205437\C:AN  
READ:UNKNOWN

TO: David Rostker@eop ( David Rostker@eop [ OMB ] )  
READ:UNKNOWN

TO: Christine L. Nolin@eop ( Christine L. Nolin@eop [ OMB ] )  
READ:UNKNOWN

TO: Thomas C. Jensen@eop ( Thomas C. Jensen@eop [ CEQ ] )  
READ:UNKNOWN

TO: Kris M Balderston@EOP ( Kris M Balderston@EOP [ WHO ] )  
READ:UNKNOWN

TEXT:

Just a reminder that THERE WILL NOT BE A MEETING THIS TUESDAY,  
FEBRUARY 11, OF THE USUAL FORESTRY GROUP.

-----  
There will be a meeting on February 18th. At that time, among  
other items, we will review:

- o litigation report, including appellate argument in  
NFRC v. Dombeck;
- o follow-up to discussion at meeting on Pacific Northwest  
Forest Plan regarding process for setting priorities  
regarding recommendations in report to President and  
Congress on implementation of the Plan;
- o draft of USDA/DOI letter on Craig's public lands bill;
- o progress on interagency salvage report action plan;
- o organization of follow-up to Feb. 6th meeting on forest  
plans.

-----  
AGAIN, THERE WILL NOT BE A MEETING THIS TUESDAY.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-FEB-1997 11:05:13.00

SUBJECT: Affirmative action meeting

TO: Kumiki S. Gibson ( CN=Kumiki S. Gibson/O=OVP @ OVP [ UNKNOWN ] )  
READ:UNKNOWN

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

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

TEXT:

I will let you know by the end of the day, but we are probably going to meet with Wade et al., on Thursday morning regarding affirmative action. We are still juggling times, but we are going to try for 10 a.m. Please let me know if you are free to attend this meeting?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-FEB-1997 11:48:40.00

SUBJECT: Re: Affirmative action meeting

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

READ:UNKNOWN

TEXT:

Elena, we want to keep this meeting small as it will only deal with our decisions regarding affirmative action procurement. We will be meeting with Maxine Waters, Wade Henderson, Weldon Latham, and Marcia Greenberger. Subsequent meetings will deal with the other affirmative action issues, including those that Steve is involve with. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-FEB-1997 12:33:08.00

SUBJECT: interagency meeting

TO: KAGAN\_E ( KAGAN\_E @ A1 @ CD @ LINGTWTY [ EOP ] ) (OPD)

READ:UNKNOWN

TEXT:

Thanks for your message about the interagency meeting -- how does 4pm on February 17th or 18th sound to you for the meeting? I'll get the memos faxed out today.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-FEB-1997 12:57:08.00

SUBJECT: Re: interagency meeting

TO: Elena Kagan ( Elena Kagan @ EOP @ LNGTWY [ OPD ] )

READ:UNKNOWN

TEXT:

2pm is fine for the interagency meeting -- I'll set it for 2pm on Tuesday, 2/18.

Also, we're setting up a meeting on the elusive HHS adoption report for tomorrow -- internal WH meeting at 5:00pm (rm 100), with HHS folks joining us at 5:30pm, so that we can give them united WH comment. I'll have Olivia fax the report to me when it's ready today and have copies walked around to the usual suspects.



## Health Care Reforms

- As we constrain growth in the Medicare and Medicaid programs through long overdue payment and structural reforms, my budget also makes modest but important investments in improving the health care system.
- Specifically, the budget includes targeted and capped investments to expand coverage to two groups of deserving Americans: children and workers between jobs.
  - Almost 10 million children are uninsured. Because almost half of all children who become uninsured do so because their parent has lost or changed a job, these initiatives include a provision to provide premiums assistance for children and their parents who are in-between jobs. They are targeted and capped, and will also cover up to 5 million children and over 2 million adult workers (and their spouses).
- States can best identify and reach out to their citizens in need of health insurance. As such, all of our coverage expansions would be administered by the states.
- It is important that we can show the nation that we can work together to give working Americans the help they need to purchase health insurance. These initiatives aim to both reduce the unacceptable levels of people without insurance and make for a more health, stable workforce.
- **Avoid engaging on specific approaches to expanding coverage, particularly tax credits.**

*Child health tax credits:* While the Republicans and the Democratic Leadership is interested in expanding coverage through tax deductions/credits, serious questions have been raised about whether they would be effective or administratively feasible. Many believe that they would simply give public dollars to people who are already paying for insurance, resulting in little new coverage. We are open, however, to thinking about how to combine a tax credit with other more effective options, like a Medicaid buy-in program or the grants to states.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:10-FEB-1997 17:24:37.00

SUBJECT: HHS adoption report

TO: Pauline M. Abernathy ( CN=Pauline M. Abernathy/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

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

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

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

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

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

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

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

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

TEXT:

Please expect delivered to you within the hour a draft copy of HHS' report to the President on adoption. The text is 27 pages and it has numerous appendices. We have scheduled 2 meetings for tomorrow -- at 5:15pm, we will have an internal WH meeting in Room 100 OEOB to discuss our reactions to the draft and at 5:45pm, HHS officials (including Olivia Golden, Ann Rosewater and Carol Williams) will join us to hear our comments. I will forward an agenda tomorrow. Please call me at ext. 67263 with any questions.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Elizabeth M. Toohy ( CN=Elizabeth M. Toohy/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:10-FEB-1997 18:03:30.00

SUBJECT: Is the welfare and labor meeting today? 5:30 pm Kitty is wondering. Liz 6-

TO: ELENA (Pager) #KAGAN ( ELENA (Pager) #KAGAN [ UNKNOWN ] )

READ:UNKNOWN

TEXT:



Automated Records Management System  
Hex-Dump Conversion

February \_\_, 1997

**MEMORANDUM FOR      ERSKINE BOWLES**

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

**SUBJECT:                "Choice" No-Fault Auto Insurance**

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

What is no-fault?

No-fault auto insurance is essentially first party coverage: if you're injured in an auto accident, your carrier pays for your injuries<sup>1</sup> and your right to sue the other party (if there is one) is either non-existent ("pure" no-fault) or circumscribed. Almost all no-fault policies get their savings from the fact that only economic damages are covered -- no pain and suffering. No state has pure no fault. Depending on how you count, about 13 states and Puerto Rico have some form of no-fault. In New York and Michigan, which have tough verbal thresholds to get into court, it is reasonably effective in holding down costs and keeping cases out of court (although New York premiums are high for other reasons). In other states, with weak verbal or dollar thresholds, or a right to choose to litigate after an accident, it has been less effective.

"Choice" no-fault is a system under which drivers would be given the option of choosing either a pure no-fault policy with fairly high policy limits (e.g., \$250,000) but no access to court or a more expensive policy which allowed court access but in which the policy-holder's insurance company would -- as is the case with uninsured motorist coverage today -- pay, no matter who was at fault. Governor Whitman has proposed a variation of this system. There would be four

---

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

policies: pure no-fault at the \$250,000 level (which would have a premium reduction of 20-25%); pure no-fault with a pain and suffering add-on, but on a first party basis (which would result in a premium reduction of about 8%); no-fault but with access to court with a high verbal threshold (reduction unstated but should be some); and the traditional second-party liability system with unfettered access to court.

### Problems and opportunities

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

### Flaws in the Argument in Favor

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

- As noted above, no state has pure no-fault. Where there are weak verbal thresholds or dollar thresholds, not only do cases continue to get to court, but there is pressure to inflate medical expenses to go over the limits.
- While legal costs are a significant part of the premium dollar, other costs are important too in determining how fast premiums go up, such as the rate of increase in medical costs (leaving aside any impact of no-fault on these costs). Moreover, automobile insurance is a competitive business in most states and insurance companies regularly cycle through periods of declining and rising premiums.
- In states with a very high proportion of single-car accidents -- i.e., most rural states -- no-fault does not change the complexion of the payout system, and therefore should not have much effect on premiums. You can't sue a tree. Rand claims that the proportion of uninsured motorists doesn't matter much, but admits they don't really know.
- Even Rand, generally supportive of no-fault, admits that the most seriously injured individuals will probably get less compensation than under the current system. (The least seriously injured will cease being overcompensated.)

Additional benefits from no-fault

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

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

Flaws in the Opposition

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:11-FEB-1997 10:22:19.00

SUBJECT: Affirmative Action Meeting

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

READ:UNKNOWN

TEXT:

Elena, see the note below for the time and date of the affirmative action meeting this week.

Please call if you have questions. Richard

----- Forwarded by Richard L. Hayes/WHO/EOP on 02/11/97

10:19 AM -----

Richard L. Hayes

02/11/97 10:21:25 AM

Record Type: Record

To: John Podesta/WHO/EOP, Rahm I. Emanuel/WHO/EOP, Victoria Radd/WHO/EOP

cc:

Subject: Affirmative Action Meeting

Sylvia asked me to invite you to a meeting on affirmative action this Thursday, February 13, 1997 at 1 p.m. The meeting should last about an hour. In addition to yourself, Wade Henderson, Weldon Latham, Rep. Maxine Waters, and Marcia Greenberger will be attending. White House staff will include Kumiki Gibson, Al Maldon (White House Legislative Affairs), Dawn Chirwa (OGC), and myself. Isabelle Pinzler from the Department of Justice will also be attending.

In general, the purpose of the meeting is to listen to, but inform our visitors of how we intend to proceed with the Justice Department's proposal to reform federal affirmative action procurement. June Gayle in Sylvia's office will setting up a brief meeting on Wednesday morning for us to get together as a group to make sure that we are on the same page. Please let me know if you will be able to attend the Thursday meeting.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sarah S. Freeman ( CN=Sarah S. Freeman/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:11-FEB-1997 12:16:22.00

SUBJECT: Patsy Fleming

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

TEXT:

Elena,  
thanks for your message. Jim Dorskind wants you to clear my draft letter to Patsy Fleming -- the bad part is that I need it back right away. They are having a good-bye party tomorrow at AIDS Policy and they want to present the letter. Thanks.  
Sarah x65514

As you leave the Administration, I want to thank you for your hard work and many contributions to the Office of National AIDS Policy.

During your tenure as Director, the White House Office of National AIDS Policy made remarkable progress in our battle against HIV and AIDS. You oversaw significant increases in funding for AIDS research, prevention, treatment, and housing that helped to bring life-sustaining care to thousands more Americans. You helped focus a new national attention on the critical challenges that HIV presents to young people. The 1995 report on this topic has changed the national dialogue and empowered young people to protect themselves. This period also saw the development of the first-ever National AIDS Strategy, which established goals for our nation and opportunities for progress in the year ahead.

On behalf of all Americans, thank you for working so hard to end the suffering caused by this terrible disease. Hillary joins me in sending best wishes for every future success and happiness.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sylvia M. Mathews ( CN=Sylvia M. Mathews/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:11-FEB-1997 13:37:47.00

SUBJECT: school to work

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

READ:UNKNOWN

TEXT:

How does this fit into our ten point plan?

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: June G. Turner ( CN=June G. Turner/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:11-FEB-1997 14:14:11.00

SUBJECT: AA Pre-Meeting

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

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

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

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

TO: AMALDON ( PR\_U=AMALDON @ PR\_L=CPUB @ MRP @ OPUS @ LNWTWY [ UNKNOWN ] )  
READ:UNKNOWN

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

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

TO: Kumiki S. Gibson ( CN=Kumiki S. Gibson/O=OVP @ OVP [ UNKNOWN ] )  
READ:UNKNOWN

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

TEXT:

There will be a meeting with Sylvia Mathews tomorrow at 2:30 pm in the Ward Room to discuss the AA meeting which will be held on Thursday, Feb. 13 at 1:00 pm (place tbd).

Invited Attendees:

John Podesta  
Vicki Radd  
Rahm Emanuel  
Richard Hayes  
Kumiki Gibson  
Al Maldon  
Isabel Pinzler (Justice)  
Dawn Chirwa  
Elena Kagan

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: June G. Turner ( CN=June G. Turner/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:11-FEB-1997 16:14:44.00

SUBJECT: AA Meeting

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

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

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

TO: Kumiki S. Gibson ( CN=Kumiki S. Gibson/O=OVP @ OVP [ UNKNOWN ] )  
READ:UNKNOWN

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

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

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

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

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

CC: Carole A. Parmelee ( CN=Carole A. Parmelee/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

CC: Terri J. Tingen ( CN=Terri J. Tingen/OU=WHO/O=EOP @ EOP [ WHO ] )  
READ:UNKNOWN

TEXT:

There will be an Affirmative Action meeting on Thursday at 1:00 pm in Room 476 OEOB chaired by Sylvia Mathews.

Invited Attendees:

Maxine Waters  
Marcia Greenberger  
Isabelle Pinzler  
Richard Hayes  
Kumiki Gibson  
John Podesta  
Rahm Emanuel  
Vicki Radd  
Al Maldon  
Elena Kagan  
Dawn Chirwa

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Katherine Hubbard ( CN=Katherine Hubbard/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:11-FEB-1997 16:14:47.00

SUBJECT: NEC and DPC principal meetings this week

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

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

TEXT:

The department of transportation has not been notified about these meetings. Do you want DOT at both of these meetings? If so, who should DOT contact to get info, etc? Please advise. Thanks. Bibb 62572.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ronda H. Jackson ( CN=Ronda H. Jackson/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:11-FEB-1997 16:21:01.00

SUBJECT:

TO: ELENA (Pager) #KAGAN ( ELENA (Pager) #KAGAN [ UNKNOWN ] )

READ:UNKNOWN

TEXT:

Call ronda in cabinet affairs x.67434.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Ronda H. Jackson ( CN=Ronda H. Jackson/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:11-FEB-1997 16:25:38.00

SUBJECT: memo

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

TEXT:  
THANKS!

February 11, 1997

MEMORANDUM FOR CHIEFS OF STAFF

FROM: Kitty Higgins

SUBJECT: Policy Council Meetings

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As discussed at the Chiefs of Staff breakfast this morning, the policy councils will be holding meetings for your Principals this week focusing on the following presidential initiatives. Your Principals should be prepared to discuss how your agency will work with the White House to amplify these initiatives.

Policy Council Meetings Schedule

National Economic Council  
Tuesday, February 12, at 1:00 p.m. in room 472

Domestic Policy Council  
Friday, February 14, at 10:30 a.m. in the Roosevelt Room

NEC/DPC Presidential Priorities

0-3 Conference  
Literacy Technology/Internet Access  
Service/Volunteerism  
Assistance to the District of Columbia  
Lifelong Learning  
Welfare to Work  
Empowerment Zones/Urban Initiatives  
Children's Health  
Youth Violence  
Family Friendly Issues  
Corporate Citizenship  
New Technology  
Racial Reconciliation

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Diana Fortuna ( CN=Diana Fortuna/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME:11-FEB-1997 18:10:35.00

SUBJECT: FYI

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

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

----- Forwarded by Diana Fortuna/OPD/EOP on 02/11/97  
06:09 PM -----

Lucia A. Wyman  
02/11/97 06:11:45 PM  
Record Type: Record

To: Diana Fortuna/OPD/EOP  
cc:  
Subject: Re: Goodling?

I think there is a POTUS meeting or Erskine meeting with Goodling about moving the education package in committee. Not about Goodling and Idea.



February \_\_, 1997

**MEMORANDUM FOR     ERSKINE BOWLES**

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

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

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

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

What is no-fault?

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

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

- 2 -

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

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

#### Problems and opportunities

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

#### Flaws in the Argument in Favor

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

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

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

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

#### Additional benefits from no-fault

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

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

#### Flaws in the Opposition

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sara M. Latham ( CN=Sara M. Latham/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:11-FEB-1997 19:39:00.00

SUBJECT:

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

READ:UNKNOWN

TO: WALLMAN\_K ( WALLMAN\_K @ A1 @ CD @ LNGTWY [ OMB ] ) (OMB)

READ:UNKNOWN

TEXT:

Can you attend an 11:30 mtg Wedn in John Podesta's ofc to discuss the AFL  
Los Angeles trip? Sara 64514

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Sylvia M. Mathews ( CN=Sylvia M. Mathews/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:11-FEB-1997 21:42:09.00

SUBJECT: Re: school to work

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

READ:UNKNOWN

TEXT:  
thanks.



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MEMORANDUM FOR THE PRESIDENT

FROM: GENE B. SPERLING

SUBJECT: POSSIBLE POLICY ANNOUNCEMENTS RELATED TO LABOR ISSUES

DATE: FEBRUARY 12, 1997

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

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

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

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

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

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

The Federal Acquisition Regulations (FAR) currently do not permit federal contractors to

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

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

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

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

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

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

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

**Con:** This provision will require auditors to make decisions about what costs are allowable that they are not well equipped to make. In addition, this provision will likely be viewed by the contracting community as an unnecessary and burdensome requirement not otherwise imposed in the private sector.

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

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

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

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

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

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

**Positions:** **Labor** recommends that you authorize all three actions. **Commerce** recommends that you authorize (a) (“defense costs”) but not (b) (“persuading costs”) or © (“responsible contractor” amendments). Commerce believes that persuading costs will be too nettlesome to implement as a practical matter; contracting officers will not be able adequately to discern reimbursable activity from non-reimbursable activity. **SBA** urges that you authorize (a) but not (c). As to the responsible contractor amendments, SBA urges that the Procurement

Council issue interpretive guidance indicating that labor and employment practices and policies should be taken into account, but that the FAR should not be amended. (This approach was explored with AFL-CIO, but was deemed by them to be inadequate since such interpretive guidance has no force of law.) **OMB** concurs with SBA. **Treasury** recommends that you authorize (a) and (c), but not (b) for the same implementation reason offered by Commerce.

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

Agree \_\_\_\_\_

Disagree \_\_\_\_\_

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

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

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

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

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

circumstances.

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

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

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

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

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

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

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

Democrats in both houses have introduced bills to expand the FMLA. Several bills are consistent with your proposal to expand FMLA for an additional 24 hours for the purposes of routine medical care for children and elderly parents or school related activities. Predictably, while most Republicans oppose the FMLA bills, they have support from women's groups and the labor movement. The Democratic legislative strategy is to try to add these FMLA expansions to the Republican bills while criticizing their comp time components.

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

**Proposal:** Establish as the Administration's position that there should be a link between FMLA expansion and any flex time legislation; that any flex time proposal should address our principles, as spelled out in your bill from last year (i.e., real choice for employees; real protection against employer abuse; and preservation of basic worker rights, such as the 40-hour work week); and that you will veto any comp time bill that does not meet these flex time

principles.

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

**Con:** AFL-CIO would prefer that you additionally threaten a veto if the bill does not include an expansion of FMLA.

**Recommendation:** I recommend -- along with the NEC members -- the proposal that you express support for FMLA expansion and flex time and threaten to veto a comp time bill if your principles are not addressed.

Agree \_\_\_\_\_

Disagree \_\_\_\_\_

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

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

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

**Status and positions:**

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

6. **Welfare reform and minimum wage**

[DPC (Elena) is writing this section]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-FEB-1997 10:02:47.00

SUBJECT:

TO: ELENA (Pager) #KAGAN ( ELENA (Pager) #KAGAN [ UNKNOWN ] )

READ:UNKNOWN

TEXT:

fyi, Ann Lewis is holding at 10:30 mtg on friday's adoption event in her office --Nicole 67263



February \_\_, 1997

**MEMORANDUM FOR      ERSKINE BOWLES**

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

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

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

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

What is no-fault?

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

---

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

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

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

#### Problems and opportunities

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

#### Flaws in the Argument in Favor

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

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

- 3 -

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

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

#### Additional benefits from no-fault

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

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

#### Flaws in the Opposition

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

#### Summary

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



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

FROM:                    Kathleen Wallman

SUBJECT:                Draft Decision Memorandum Concerning Labor-Related Issues

COPY:                    Gene Sperling

DATE:                    February 12, 1997

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

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

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

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

MEMORANDUM FOR THE PRESIDENT

FROM: GENE B. SPERLING

SUBJECT: POSSIBLE POLICY ANNOUNCEMENTS RELATED TO LABOR ISSUES

DATE: FEBRUARY 12, 1997

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

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

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

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

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

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

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

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

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

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

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

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

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

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

relations costs were or were not allowable.

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

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

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

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

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

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

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

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

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

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

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

\_\_\_\_\_ **Let’s Discuss**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

\_\_\_\_\_ Agree

\_\_\_\_\_ Disagree

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

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

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

**Status and positions:**

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

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

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

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

\_\_\_\_\_ Agree

\_\_\_\_\_ Disagree

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

6. **Welfare reform and minimum wage**

[DPC (Elena) is writing this section]

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

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

SUBJECT: hhs adoption report

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

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

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

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

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

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

TEXT:

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-FEB-1997 13:17:22.00

SUBJECT: friday

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

READ:UNKNOWN

TO: Pauline M. Abernathy ( CN=Pauline M. Abernathy/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TO: Jeanine D. Smartt ( CN=Jeanine D. Smartt/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TEXT:

FYI re: the timing of our interagency meeting on early childhood development, which is scheduled for Friday at 1:30pm -- the adoption event just put on the President and First Lady's schedules is from 12:15 - 1:00pm (but may not run on time or may be moved slightly over the next few days). It may not be a problem, but I may be late or miss it altogether.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-FEB-1997 18:04:14.00

SUBJECT:

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

READ:UNKNOWN

TEXT:

new version of adoption report just in and on your chair -- pls call me  
when you have a chance -- Nicole 67263

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Kris M Balderston ( CN=Kris M Balderston/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:12-FEB-1997 18:07:40.00

SUBJECT: Re: Cohen event conflict

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

READ:UNKNOWN

TEXT:

thnx alot -- i'll pass the names on to her

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME:12-FEB-1997 18:22:36.00

SUBJECT: CFR Meeting with EMILY'S List

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Wendy Smith ( CN=Wendy Smith/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

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

READ:UNKNOWN

TO: Michael B. Feldman ( CN=Michael B. Feldman/O=OVP @ OVP [ UNKNOWN ] )

READ:UNKNOWN

TO: Laura K. Capps ( CN=Laura K. Capps/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Michelle Crisci ( CN=Michelle Crisci/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Wendy S. White ( CN=Wendy S. White/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: FOLEY\_M ( FOLEY\_M @ A1 @ CD @ LNWTWY [ EOP ] ) (WHO)

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

We will be meeting with Karin Johanson, Communications Director for EMILY's List on Friday, 2/14 from 2pm - 3pm in Rm 180 OEOP to discuss how EMILY's List operates and the impact of the current campaign finance reform legislation on those operations. Please join us.

RECORD TYPE: PRESIDENTIAL (EXTERNAL MAIL)

CREATOR: Peter G. Jacoby@EOP@LNWTWY@EOPMRX

CREATION DATE/TIME:12-FEB-1997 18:26:00.00

SUBJECT: CFR Meeting with EMILY'S List

TO: FOLEY\_M  
READ:13-FEB-1997 18:53:21.64

( FOLEY\_M@A1@CD ) (WHO)

TO: Paul J. Weinstein Jr.  
READ:NOT READ

( Paul J. Weinstein Jr.@EOP@LNWTWY@EOPMRX )

TO: Wendy S. White  
READ:NOT READ

( Wendy S. White@EOP@LNWTWY@EOPMRX )

TO: Wendy Smith  
READ:NOT READ

( Wendy Smith@EOP@LNWTWY@EOPMRX )

TO: Michelle Crisci  
READ:NOT READ

( Michelle Crisci@EOP@LNWTWY@EOPMRX )

TO: Michael Waldman  
READ:NOT READ

( Michael Waldman@EOP@LNWTWY@EOPMRX )

TO: Laura K. Capps  
READ:NOT READ

( Laura K. Capps@EOP@LNWTWY@EOPMRX )

TO: Douglas B. Sosnik  
READ:NOT READ

( Douglas B. Sosnik@EOP@LNWTWY@EOPMRX )

TO: Michael B. Feldman  
READ:NOT READ

( Michael B. Feldman@OVP@LNWTWY@EOPMRX )

TO: Elena Kagan  
READ:NOT READ

( Elena Kagan@EOP@LNWTWY@EOPMRX )

CC: Elisa Millsap  
READ:NOT READ

( Elisa Millsap@EOP@LNWTWY@EOPMRX )

TEXT:

Message Creation Date was at 12-FEB-1997 18:24:00

We will be meeting with Karin Johanson, Communications Director for EMILY's List on Friday, 2/14 from 2pm - 3pm in Rm 180 OEOB to discuss how EMILY's List operates and the impact of the current campaign finance reform legislation on those operations. Please join us.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

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

SUBJECT: Campaign Finance Reform Meeting to Discuss Spending Cap Alternatives

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: FOLEY\_M ( FOLEY\_M @ A1 @ CD @ LNWTWY [ EOP ] ) (WHO)

READ:UNKNOWN

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

READ:UNKNOWN

TEXT:

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Barbara D. Woolley ( CN=Barbara D. Woolley/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME:12-FEB-1997 19:36:13.00

SUBJECT: Family and Medical Leave Expansions

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

READ:UNKNOWN

TEXT:

Who in DPC is working on this issue?

RECORD TYPE: PRESIDENTIAL (EXTERNAL MAIL)

CREATOR: Peter G. Jacoby@EOP@LNWTWY@EOPMRX

CREATION DATE/TIME:12-FEB-1997 19:42:00.00

SUBJECT: Campaign Finance Reform Meeting to Discuss Spending Cap Alterna

TO: FOLEY\_M ( FOLEY\_M@A1@CD ) (WHO)  
READ:13-FEB-1997 18:55:04.24

TO: Paul J. Weinstein Jr. ( Paul J. Weinstein Jr.@EOP@LNWTWY@EOPMRX )  
READ:NOT READ

TO: Elena Kagan ( Elena Kagan@EOP@LNWTWY@EOPMRX )  
READ:NOT READ

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

TO: Michael Waldman ( Michael Waldman@EOP@LNWTWY@EOPMRX )  
READ:NOT READ

CC: Elisa Millsap ( Elisa Millsap@EOP@LNWTWY@EOPMRX )  
READ:NOT READ

TEXT:

Message Creation Date was at 12-FEB-1997 19:37:00

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



January 26, 1997

MEMORANDUM FOR ERSKINE BOWLES

FROM: JOHN HILLEY  
PETER JACOBY

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

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

***Background***

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

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

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

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

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

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

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

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

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

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

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

CREATION DATE/TIME: 3-MAR-1997 12:29:58.00

SUBJECT: 1pm conf. call

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

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

TO: Pauline M. Abernathy ( CN=Pauline M. Abernathy/OU=OPD/O=EOP @ EOP [ OPD ] )  
READ:UNKNOWN

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

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

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

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

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

TEXT:

Please call into the 1pm Conference Call on the adoption legislative language by dialing 456-6766, code 8726. This call should be very brief, as Matthew McKearn advises that the issue of the structure of the bonus payments may be resolved between OMB/HHS on a staff level. The only outstanding issues are the use of the bonus money and an issue raised by the Department of the Interior appealing that the bonus be available for tribes.

Jill, Matthew advises that Ken does not need to be on the call unless the issue he is working on does not get resolved. Thanks.

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Suzanne Dale ( CN=Suzanne Dale/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 3-MAR-1997 14:09:54.00

SUBJECT: Final Confirmation -- Welfare/Fair Labor Standards Mtg. 3:15 pm TODAY

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

READ:UNKNOWN

TO: Kathryn O. Higgins ( CN=Kathryn O. Higgins/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TO: Diana Fortuna ( CN=Diana Fortuna/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

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

READ:UNKNOWN

TO: Emily Bromberg ( CN=Emily Bromberg/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

CC: Elizabeth M. Toohy ( CN=Elizabeth M. Toohy/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

CC: Jill M. Pizzuto ( CN=Jill M. Pizzuto/OU=OMB/O=EOP @ EOP [ OMB ] )

READ:UNKNOWN

CC: Alison E. Bracewell ( CN=Alison E. Bracewell/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TEXT:

Final Confirmation: The meeting with representatives of state and local governments regarding the welfare law and the Fair Labor Standards Act will be held today, March 3, at 3:15 pm in OEOB 180. Please note that the room has changed due to the increased number of participants. The participants for this meeting are listed below. If you will not be able to attend, please call me at 6-2896. Thanks.

WELFARE/FAIR LABOR STANDARDS ACT MEETING

DATE: Monday, March 3, 1997

TIME: 3:15 - 3:30 pm Internal Administration Pre-Meeting

3:30 - 4:30 pm Meeting w/State and Local

Government Representatives

PLACE: OEOB, Room 180

CALL-IN: 202/757-2104 code #8181

PURPOSE: This meeting will provide an opportunity for the Administration to hear ideas and suggestions from representatives of state and local government regarding the interplay between the welfare law and the Fair Labor Standards Act.

ATTENDANCE

White House

Emily Bromberg, Intergovernmental Affairs

Kitty Higgins, Cabinet Affairs

Ken Apfel, OMB Human Resources

Elena Kagan, DPC  
Diana Fortuna, DPC

HHS  
John Monahan, Intergovernmental (Calling in)  
Senior HHS Representative (To be designated by John Monahan ASAP)

Labor  
Nancy Kirshner, Intergovernmental  
Seth Harris, Policy

Agriculture - Food Stamps  
Yvette Jackson (Calling in)  
Bonny O'Neil

INTERGOVERNMENTAL ORGANIZATIONS

-- IN ATTENDANCE IN ROOM 180 FROM 3:30 - 4:30 PM

Susan Golonka, Senior Policy Analyst, National Governors' Association  
(NGA)  
Andrea Kane, Senior Policy Analyst, National Governors' Association (NGA)  
Sheri Steisel, Senior Comm. Director, National Conference of State  
Legislatures (NCSL)  
Bill Warren, Federal Affairs Counsel, National Conference of State  
Legislatures (NCSL)  
Elaine Ryan, Director of Government Affairs, American Public Welfare  
Association (APWA)  
John Sciamanna, Senior Policy Analyst, American Public Welfare Association  
(APWA)

STATE REPRESENTATIVES -- WILL PARTICIPATE BY PHONE FROM 3:30 - 4:30 PM

Charr Lee Metsker, Chief, Employment Program Bureau, Dept. of Social  
Services (CA)  
Carmen Nazario, Secretary, Dept. of Health and Human Services (DE)  
Don Winstead, Chief, Welfare Reform, Dept. of Children and Family Services  
(FL)  
Carlis Williams, Deputy Director, Division of Family and Children (IN)  
Kathy Tobin, Family Independence Agency (MI)  
Ray Castro, Director, Office of Federal Relations, Dept. of Human Services  
(NJ)  
(Also representatives from Ohio and Kentucky)

WASHINGTON OFFICE STAFF -- WILL LISTEN TO MEETING BY PHONE FROM 3:30 -  
4:30 PM

Brian Webb, California  
Maura Cullen, Delaware  
Karen Hogan, Florida  
Jeff Viohl, Indiana  
LeAnne Redick, Michigan  
Tina Kreisher, New Jersey  
Stephanie Ferry, Ohio

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Jeanine D. Smartt ( CN=Jeanine D. Smartt/OU=OPD/O=EOP [ OPD ] )

CREATION DATE/TIME: 3-MAR-1997 17:14:44.00

SUBJECT: My info

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

READ:UNKNOWN

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

READ:UNKNOWN

TO: Pauline M. Abernathy ( CN=Pauline M. Abernathy/OU=OPD/O=EOP @ EOP [ OPD ] )

READ:UNKNOWN

TEXT:

Where you can find me.

My new number will be 690-8505

Address: Department of Health and Human Services  
200 Independence Ave, Room 450G  
Washington, DC 20201

I think my e-mail is jsmartt@osaspe.dhhs.gov. I'll send you all something soon just in case that is not it. I will be talking with you all so often you won't even know I'm gone!

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Christa Robinson ( CN=Christa Robinson/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 3-MAR-1997 17:30:36.00

SUBJECT: : EARLY LEARNING CONFERENCE

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

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

TEXT:

I'm assuming someone from DPC was at the same meeting and was given the same opportunity to submit names for this conference, but just in case you may want to forward this to the appropriate staff.

----- Forwarded by Christa Robinson/WHO/EOP on 03/03/97  
05:28 PM -----

Ann T. Eder  
03/03/97 03:58:52 PM  
Record Type: Record

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

cc:

Subject: : EARLY LEARNING CONFERENCE

URGENT -- PLEASE READ THE FULL MESSAGE. NAMES FOR THE CONFERENCE MUST BE SUBMITTED ASAP.

Doris and I have just gotten back from a meeting on the Early Learning & Development conference tentatively scheduled for April 17 here at the White House. The theme is the critical importance of the earliest years of children's lives, and the development of their cognitive, emotional and social development. Generally, it is the 0-3 years, but experts warn that it does extend beyond those years to the pre-school and early-school age.

The Conference will be a day long event consisting of two interactive panels, moderated by the First Lady. The first panels will examine current scientific research on early brain development and the practical applications of this information by parents and caregivers. There will then be a lunch followed by a second panels discussing how society contributes to the development. This will included a large number of our groups including, religious, business, child and/or health care, child advocates, educators, etc. Part of this discussion will also be examining the role of government.

YOUR ASSIGNMENT:

We have been asked to develop a list of suggested invitees for review by the President and First Lady ON THURSDAY. Therefore, we must have your suggestions, PRIORITIZED, WITH A ONE-TWO SENTENCE DESCRIPTION BY COB WEDNESDAY. (YES - - TWO DAYS FROM TODAY. )

Message Sent

To:

---

Cheryl M. Carter/WHO/EOP  
Marilyn DiGiacobbe/WHO/EOP  
Craig Gardenswartz/WHO/EOP  
Jay K. Footlik/WHO/EOP  
Richard L. Hayes/WHO/EOP  
Robert B. Johnson/WHO/EOP  
Doris O. Matsui/WHO/EOP  
Elizabeth A. Myers/WHO/EOP  
Peter O'Keefe/WHO/EOP  
Christa Robinson/WHO/EOP  
Lisa O. Ross/WHO/EOP  
Lee A. Satterfield/WHO/EOP  
Brian G. Scott/WHO/EOP  
Suzanna A. Valdez/WHO/EOP  
Daniel Wexler/WHO/EOP  
Barbara D. Woolley/WHO/EOP  
Holly D. Carver/WHO/EOP  
William H. White Jr./WHO/EOP  
Richard Socarides/WHO/EOP  
Marjorie Tarmey/WHO/EOP  
Maria Echaveste/WHO/EOP  
Floydetta McAfee/WHO/EOP

RECORD TYPE: PRESIDENTIAL (NOTES MAIL)

CREATOR: Maria Echaveste ( CN=Maria Echaveste/OU=WHO/O=EOP [ WHO ] )

CREATION DATE/TIME: 3-MAR-1997 19:55:02.00

SUBJECT: Re: Legal Boundaries on Welfare to Work Outreach

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

READ:UNKNOWN

CC: William P. Marshall ( CN=William P. Marshall/OU=WHO/O=EOP @ EOP [ WHO ] )

READ:UNKNOWN

TEXT:

Elena--I guess this answers our questions. Now we just have to figure out the right people to talk to about welfare. Thanks,

----- Forwarded by Maria Echaveste/WHO/EOP on 03/03/97

07:55 PM -----

William P. Marshall

03/03/97 07:21:35 PM

Record Type: Record

To: Maria Echaveste/WHO/EOP

cc:

Subject: Re: Legal Boundaries on Welfare to Work Outreach

Maria,

I ran your questions by Dawn and Kathy and we agreed that what you are proposing is no problem as long as the individuals with whom you are working are not directed by the White House and as long as they do not represent themselves as having an official relationship with the White House. If all we are doing is serving as an information conduit, it is ok as long as we provide similar information to other interested persons.

I hope this helps.