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DRAFT BACKGROUND MEMORANDUM FOR EOP PRINCIPALS MEETING

FROM: REBECCA BLANK
ELENA KAGAN
SALLY KATZEN
JOE MINARIK

Subject: Meeting on Income and Poverty Measures

Purpose of the Meeting

In early 1999, the Census Bureau will publish alternative measures of poverty based on the proposals contained in the 1995 National Research Council (NRC) report, Measuring Poverty: A New Approach. The current official poverty measure dates back to the 1960s, and while it has been an important contributor to public debate and policymaking, the NRC report reflects a broad consensus that the measure is out-of-date and in need of revision.

Poverty measurement involves two concepts: (1) A definition of family income; and (2) A "threshold" against which income is compared to determine if a family is poor. Changes in these two concepts will have a direct impact on statistics used by the public for informational purposes. Changes will also likely have an effect on Federal programs as well.

Because of the importance of an independent statistical system, the Census Bureau plays the major role in deciding technical issues regarding poverty measurement. However, because of the important policy and political implications of the poverty concept, Census has asked for advice from the EOP (because OMB, through OIRAs Statistical Policy Office, is the statutory arbiter of the "official" poverty measurement methodology) on the upcoming report.

In response to Census request, CEA, DPC, NEC, and OMB formed a policy working group. (Among the agencies, only the Deputy Assistant Secretary for Human Services Policy at HHS was invited to participate because of her expertise on poverty measurement.) This working group has held a series of meetings, and prepared the attached memo to outline its tentative guidance to Census. The meeting of EOP Principals is intended to review the working groups conclusions before they are transmitted to Census. It is important to emphasize that we are only being asked to give advice to the Bureau of the Census; what it actually publishes is its decision.

There are four global issues to be decided; the first two are most pressing because we need to give guidance to Commerce as soon as possible:

1) Should the Census Bureau select or highlight a single alternative poverty measure, or present several equally in its forthcoming report? Do the principals have a single preferred measure that they would like to see replace the current official measure? Would anointing a single measure at this time be premature, and prejudice the analytical process? Would it raise ire in the Congress? If we do not anoint a single preferred measure at this time, will it be difficult to select one later should we want to switch the "official" definition to one of the proposed alternatives?

2) There are also two technical issues (policy options 1 and 4 in the background memo) that require careful consideration.

*Should we advise Census to benchmark the new poverty measure to the old poverty rate in the current year (so that the number of people classified as poor would remain the same, although the distribution would change)? Should Census implement the NRC recommendations, which would result in a higher poverty rate (e.g., 18% rather than 13.7% in 1996)?

*If there is only one measure reported by Census, should it account for differences in medical out-of-pocket (MOOP) expenditures among households in the way recommended by the NRC, namely, subtracting them from income before a family's poverty status is calculated? (An alternative choice is to add them to the thresholds -- which of these methodologies should be used is a technical choice best left to Census.) If we believe that several measures should be equally reported by Census, should one of them account for medical expenditures using a different methodology?

3) How should the Administration proceed toward a new official measure of poverty? Should it proceed along a timetable to replace the current official measure before the end of this Administration? If so, what process do we need to establish to move forward on this in a timely fashion? Or, should the Administration proceed more cautiously, letting a consensus build around a preferred measure among the community of users of poverty statistics, but possibly lessening the chances that the official measure is ultimately changed?

4) In addition to OMB's designation of the "official" poverty measurement, HHS also issues administrative poverty guidelines, used in certain program eligibility calculations. If revised poverty thresholds are adopted as part of a new poverty measure, would the Administration continue the old administrative poverty guidelines, or make them consistent with the new threshold measure? If the guidelines are made consistent, would the Administration make programmatic changes to mitigate the effects on eligibility and spending of switching to the new guidelines?

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TECHNICAL BACKGROUND ON INCOME AND POVERTY MEASURES

The Current Poverty Measure

The methodology by which current poverty thresholds are determined was developed in the early 1960s by Mollie Orshansky, a staff economist at the Social Security Administration. She developed a set of poverty thresholds that vary with the number of adults, the number of children, and the age of the family head. These thresholds represent the cost of a minimum diet multiplied by 3 to allow for non-food expenditures. The multiplier of 3 was chosen because the average family in 1955 spent one-third of its after-tax income on food. Since the late 1960s, the thresholds have simply been updated annually to adjust for price inflation -- i.e., the measure of poverty has remained virtually unchanged for 35 years, despite substantial changes in family behavior and government policy.

The NRC panel identified several weaknesses in the current poverty measure:

*The current poverty measure takes no account of changes in taxes (i.e., the expansion of the EITC) or in-kind benefits (i.e., Food Stamps).

*The current measure does not distinguish between the needs of working and non-working

families. In particular, it does not reflect the cost of child care and other work expenses for working low-income families.

*The current poverty measure takes no explicit account of medical care costs, which vary significantly across families and have increased substantially since the current poverty measure was developed.

The NRC Recommendations

In order to understand the NRC panels recommended revisions, one must understand the basics of determining poverty. A family is considered poor when its resources fall below a predetermined poverty line or threshold. Therefore, one must develop a methodology for estimating family resources and for defining the threshold resource level below which a family is considered poor.

1. Defining Family Resources

Under the current poverty calculation, the definition of family resources is cash income. The NRC recommendations would estimate family resources as:

Family resources = Cash income + Near-money in-kind benefits - Taxes - Child care costs - Work expenses - Child support payments - Out of pocket medical care expenditures (including health insurance premiums)

The rationale for subtracting taxes, work and medical expenses from family resources is that these expenditures are typically not discretionary and reduce the family income available to achieve a basic quality of life.

There is near consensus among researchers that adjusting for near-money in-kind benefits (primarily Food Stamps and housing subsidies) and taxes would be an improvement in how poverty is measured. There is slightly less agreement on whether child care costs, work expenses, and child support payments should also be deducted because an unknown proportion of these expenses is likely discretionary. (The NRC proposes to cap the amount of child care and work expenses that can be subtracted to deal with this problem.) As discussed below, the adjustment for out-of-pocket medical care expenditures is more controversial.

2. Defining a Poverty Threshold

A threshold must be determined against which to compare a family's resources. The NRC panel recommends basing the threshold on expenditures on "necessities" (food, shelter, and clothing) plus a little more. Specifically, the NRC panel recommends selecting the 30th to 35th percentile in the distribution of annual expenditures on food, shelter, and clothing among families of four (two adults and two children), and then multiplying this expenditure level by between 1.15 and 1.25. Thresholds for other family sizes and types would be determined by an equivalency scale calculation.

The NRC recommends adjusting these thresholds to take into account geographic variation in cost of living, based on differences in housing costs by region and by city-size. It also recommends adjusting the thresholds over time by recalculating them from expenditure data on an annual basis.

OPTIONS FOR DISCUSSION

1. Recommendation regarding determining the level of the poverty threshold.

The NRC panel acknowledges that the actual level at which the poverty threshold is set (and hence the final poverty rate) is inherently arbitrary and cannot be determined on the basis of purely statistical judgements. There are two primary options:

A. The NRC alternative. As described above, the NRC panel recommends establishing a threshold based on the 30th-35th percentile in the distribution of annual expenditures for a family of four, with a small multiplier to account for additional small personal expenditures. As shown in Tables 1 and 2, column 3, this would raise the 1996 poverty rate from 13.7% to 18%, and increase poverty among all subgroups. In addition, (as described further in Option B) this change will alter the composition of poverty among various subgroups.)

B. Benchmarking. The NRC panel also considered poverty estimates that benchmark the alternative poverty rate to equal the old poverty rate in a given year. The Census has done a number of such benchmarked calculations for 1996, as shown in Tables 1 and 2, column 2. (The report issued early next year would benchmark to 1997.) Benchmarking would assure that the aggregate poverty rate is identical for the official and the alternative measure in the benchmark year. But the distribution of poverty among subgroups within each measure would differ (see Table 2). In general, working families and families with large out-of-pocket medical expenses become poorer and non-working families with substantial in-kind benefits become less poor. This has geographic as well as subgroup poverty rate implications. Similarly, both historical and future trends would differ. For instance, the alternative measure is identical in 1996 but higher in 1991. (The faster fall using the alternative measure is largely due to the expansion in the EITC.)

Pros of using the NRC measure:

*Incorporates the recommendations of the NRC panel, based on their professional judgement from the best available evidence.

*Generates dollar threshold levels that are quite similar to the current dollar thresholds (although the resources to which the thresholds would be compared are quite different).

Cons of using the NRC Measure:

*Results in a higher poverty rate (although the trends over time are similar.)

Pros of Benchmarking:

*May provide an easier transition to the new methodology because there will not be a change in the overall level of poverty.

*Focuses the arguments on the relative distribution of who is poor rather than how many people are poor.

Cons of Benchmarking:

*Violates the NRC recommendation that the threshold should be based on the 30th-35th percentile in the expenditure distribution. In order to benchmark, the threshold falls to (about) the 25th percentile of expenditures on food, shelter, and clothing.

2. Recommendation regarding updating the thresholds over time

Currently the poverty threshold is updated annually using the CPI. This, however, does not allow for adjustments that reflect changes in underlying consumption patterns that might affect the revised thresholds. For instance, food prices have decreased relative to other goods over time, while housing prices have increased. There are two options:

(A) Recalculate the thresholds annually as a share of consumption on food, shelter, and clothing. (This is recommended by the NRC panel.)

(B) Update the thresholds on a year-to-year basis using a price index (preferably one based only on food, shelter and clothing). Implement a regular process (every 5-10 years) of reviewing the poverty measure and recalculating the thresholds.

Pros of Re-calculating the Thresholds:

*Regular recalculation will allow the poverty thresholds to reflect more accurately changes in consumption patterns and standards of living.

*Without an expectation that the thresholds will be re-calculated regularly, it may be hard to update them at all.

*Under certain data circumstances, recalculation could move the threshold a large amount or in an unexpected direction. This might raise substantive and political concerns.

Pros of Updating Using the CPI:

*Using the NRC methodology, the poverty thresholds are somewhat relative (i.e., they are affected by changes in the distribution of household expenditures.) As a result, they are a moving target and do not provide an absolute standard of need. A CPI adjustment would make it easier to compare poverty from year-to-year against a constant standard.

*Because consumption patterns and standards of living change slowly, it may be better to take them into account periodically rather than annually.

*An update with a CPI for necessities only (food, clothing, and shelter) may capture most of the relevant changes and would make it easier in the short run to understand the updating procedure.

*The data may not be good enough for an annual re-calculation of the thresholds.

NOTE: The EOP Policy Working Group recommends Option (B).

3. Recommendation as to whether thresholds should be adjusted for geographic variation.

The NRC panel recommended adjusting the poverty thresholds for cost-of-living differences across regions and by city size. Census proposes to make such adjustments based on housing cost differences (which have much greater regional/city size variation than food or clothing.)

Pros of Adjusting for Geographic Variation in Cost of Living:

*Most statisticians and economists agree that such adjustments should be made if data are available.

Cons of Adjusting for Geographic Variation in Cost of Living:

*There is no one "right" way to make such adjustments and the issue could be highly politicized.

*The data available to make such adjustments are limited and may not be entirely reliable.

*Implementing such an adjustment in the poverty line threshold could lead to pressure to provide regional cost adjustments in a wide variety of other government programs, from Social Security benefits to tax payments.

NOTE: The EOP Policy Working Group recommends against geographic price adjustments.

4. Recommendation regarding how to account for medical care expenditures.

Since the mid-1970s, analysts have been concerned that the official poverty rate overstates the extent of poverty among beneficiaries of Medicare, Medicaid, and private health insurance. At the same time, the official poverty rate may understate the extent of poverty among populations with large medical expenditures. Most analysts agree that, in principle, medical care "needs" should be incorporated into the calculations of the threshold and family resources (i.e., families with higher medical needs should have higher thresholds; those with more generous medical benefits should be considered to have more resources; and those who must spend more to achieve "good health" should have those expenses subtracted from their resources). However we cannot observe a family's medical need. In addition, it is not clear that one can simply impute the cash value of insurance benefits and add this to income. The "extra" benefits received from insurance to cover expensive medical services do not provide income that can be used for any other purpose.

To understand the difficulties, consider including medical benefits into the income calculations. Adding medical benefits to income, without also adjusting the poverty threshold, has the perverse effect of making sicker individuals appear better off. Other proposals to adjust the poverty threshold (without also adjusting resources) run into similar problems.

In the end, the NRC panel recommended subtracting all medical out-of-pocket (MOOP) expenses (including health insurance premiums) from income, without trying to value health insurance as a part of income or medical need as a part of the thresholds. Hence, family resources are measured net of MOOP. Those individuals with good insurance will have few out-of-pocket expenses; those without insurance who face health problems will have lower measured incomes as they pay more for medical care.

This adjustment accounts for the larger poverty rates using the NRC methodology. For example, in 1996 the poverty rate was 13.7% using the current methodology; it would have been 18% using the NRC methodology, but only 13.2% using the NRC methodology without the medical expenses adjustment. This adjustment nearly doubles the poverty rate for the elderly, raising it almost to the rate for children. This adjustment is one of the most

controversial of the NRC recommendations.

There is general agreement that ignoring medical care and medical expenses entirely is not a good idea, particularly given the rapid increase in medical costs in the past 30 years, the extent of uninsurance among the low-income population, and this Administrations concern with it. In addition, if we do not adjust for medical care (in some way) now, it may be much harder to do so in a few years when we will have better data (because the change will be so dramatic it will be viewed as another big methodology. change).

There are three approaches to incorporating medical care and expenses:

(A) Follow the NRC recommendation and subtract MOOP from family resources. This makes families with unreimbursed medical expenses less well-off than other families.

(B) MOOP could be added to the thresholds rather than subtracted from resources. (The choice between options (A) and (B) is a technical decision that Census should address.)

(C) Try to impute the value of health insurance to resources, so those with insurance have higher resources. Health insurance should then also be imputed into the thresholds.

Pros of Adjusting for MOOP (either options (A) or (B)):

*While not perfect, under the NRC recommended adjustment families with higher unreimbursed medical expenditures will be "poorer." The NRC recommended adjustment would also be sensitive to changes in health care financing that would decrease MOOP and thereby increase disposable income and reduce poverty.

Cons of Adjusting for MOOP (either options (A) or (B)):

*The data that are currently available are out-of-date (but we should have updated information available in a more timely fashion within another year.)

*The NRC recommended approach relies on the controversial assumption that all medical care expenditures are nondiscretionary. (This concern could be mitigated to some extent by imposing a cap on the amount of medical expenses.)

Pros of Imputing the Value of Health Insurance into Resources and Thresholds:

*Provides a more complete accounting of all medical resources available to a family.

Cons of Imputing the Value of Health Insurance into Resources and Thresholds:

*There is no accepted "correct" way to do this. The data here are probably more unreliable than the data needed to impute the value of MOOP to families.

*Many analysts agree with the NRC panel that the value of health insurance is quite different than (say) the value of food stamps, which are far more fungible. Mixing in health insurance coverage with economic need causes interpretational and conceptual problems to a measure of economic need.

*To date, Census has been following the NRC recommendation. If we asked them to switch to this approach, it might require substantial additional work and seriously delay their report.

NOTE: The EOP Policy Working Group recommends that Census incorporate medical care in some way and recognizes that option (A) is the most practical and realistic for the short term.

However, the group strongly recommends that Census thoroughly investigate the impact of option (B), and continue work on other approaches to incorporating medical care and expenditures, such as by valuing medical health insurance (option (C)).

5. Recommendations regarding which alternatives Census should publish and/or how they should be presented.

The current plan is to publish a small number (maybe 3) of alternatives. For instance, the Census could publish a 1997-benchmarked poverty rate and a NRC-alternative poverty rate, providing two alternatives. Or it could publish a 1997-benchmarked poverty rate including all of the NRC recommendations, and then publish the same thing without MOOP, or without geographical price variation. (There will be extensive appendices in this report that will report a wide variety of different poverty calculations, to demonstrate the statistical properties of the poverty measurement recommended by NRC.)

*Will it be confusing to publish multiple (even a small number of) alternatives, as opposed to only one alternative? How will this affect how the report is received? How should these be presented?

*What problems will it create to have multiple alternatives if at some future point we want to redefine the official poverty rate to one of these improved alternative measures?

Table 1. Poverty Rates and Thresholds under Alternative Measures, 1991-96, CPS

Official measure	Benchmarked to 1996	NRC Experimental
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Poverty Rates

1991	14.2	14.5	18.9
1992	14.8	15.3	19.6
1993	15.1	15.7	20.2
1994	14.6	14.7	19.0
1995	13.8	13.8	18.2
1996	13.7	13.7	18.0

Thresholds for 2 adults
and 2 children (in dollars)

1991	13,812	11,891	13,891
1992	14,228	12,249	14,309
1993	14,654	12,616	14,738
1994	15,029	12,938	15,115
1995	15,455	13,305	15,543
1996	15,911	13,698	16,002

Table 2. Poverty Rates under Alternative Measures, 1996, CPS

Official measure	Benchmarked to 1996	NRC Experimental
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All persons	13.7	13.7	18.0
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Children 20.5 18.1 23.8
 Nonelderly adults 11.4 11.5 15.0
 Elderly 10.8 15.6 20.4

White 11.2 11.8 15.6
 Black 28.4 25.2 32.0
 Hispanic origin 29.4 28.5 37.7

One or more workers 9.5 10.0 13.6

Persons in family of type:

Married couple 6.9 7.8 11.1
 Female householder 35.8 32.3 40.4

Geographic regions:

Northeast 12.7 14.3 18.8
 Midwest 10.7 10.3 13.8
 South 15.1 14.2 18.3
 West 15.4 16.1 21.0

Metro/CC 19.6 19.2 24.7
 Not CC 9.4 10.6 14.1
 Nonmetro 15.9 13.5 17.5

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APPENDIX

The Effect of the Poverty Measure on Program Eligibility and Benefits

The Congressional Research Service has identified 26 programs that are affected by the measure of poverty. Many of the program connections to the poverty definition are unique, and many are highly complex. Hence, we do not yet have a precise estimate of how program costs or coverage would be affected.

We should not leap to the conclusion that this large number of programs would dictate a large Federal cost impact of a new measure of poverty. Many of the affected programs are small, and many of the programs may be affected to only a limited degree by even a change in the measured aggregate incidence of poverty. Some of the programs are discretionary, meaning that their aggregate cost is set by appropriation; a change in the measure of poverty would affect only the geographic distribution of those funds (though that could, in itself, be a matter of political concern, if such reallocations should prove to be significant). However, where at least a few large programs are involved, it is essential to investigate the potential impact carefully.

There are two schools of thought on the potential budgetary or allocational effect of a change in the definition of poverty.

Gordon Fisher, the analyst at HHS who oversees the production of the poverty guidelines used in some programs, presents one perspective in a recent paper:

A number of people believe that the poverty guidelines affect many big entitlement

programs. That belief is an exaggeration of the actual situation. Most of the Federal programs using the guidelines are medium-sized or small, with only a few big programs. Moreover, most...are discretionary programs...Only a few programs using the guidelines are mandatory: Medicaid, the Food Stamp Program, and child nutrition programs (mainly the National School Lunch Program). G. Fisher, "Disseminating the Administrative Version and Explaining the Administrative and Statistical Versions of the Federal Poverty Measure." *Clinical Sociology Review*, vol. 15 (1997), p. 165.1

Offering a different perspective, a recent issue of *Focus*, the periodical of the Institute for Research on Poverty, notes:

For example, the NRC study panel proposed that the measure take into account work-related expenses in families where at least one person is employed. Such a change could have important implications for the allocation of federal funds between local areas where the proportions of working and nonworking families differ. Including geographic variations in housing costs might have similar far-reaching effects. Before introducing a new property measure for program purposes, policy makers must determine whether the resulting redistribution of resources will be more equitable, or will have unexpected and capricious effects.

As Fisher suggests, the discretionary - mandatory distinction is important. As noted above, the issue for discretionary programs is not the amount of funding, which is determined by appropriations (though Congress could change future appropriations under the influence of a changed measure of poverty), but rather the geographic allocation of a fixed amount of appropriations. The geographic allocation of relevant discretionary program funds can depend upon the incidence of poverty in particular locations. Therefore, these programs are affected by the actual poverty measure, based on the official thresholds and income concept. The ties between these programs and poverty vary considerably, and staff are undertaking the task of determining how much effect a change in the poverty concept could have. These allocations may or may not change by much, depending upon the extent to which the new poverty measure reallocated poverty geographically; the role of poverty in the allocation of the discretionary funds (some programs use poverty as only one of several indexes by which to distribute funding); the lag between the measurement of poverty and the actual effect on the program (some programs use poverty as measured in the decennial census); and other factors that can be determined only through a program-by-program search.

Besides the official poverty thresholds and the income definition, there are poverty guidelines. The Federal poverty guidelines are the version of the official poverty measure used for program purposes. They are issued by HHS annually, and are based on a simplified and updated version of the previous years Census poverty measure.

Staff are in the process of determining the potential effects of a change in the poverty measure on the two largest programs affected by the poverty measure, Medicaid and the Food Stamp Program, as well as the smaller programs. In Medicaid, while most recipients qualify for coverage because of their participation in other means-tested programs such as TANF and SSI (programs that do not use the poverty line in their eligibility criteria), changes in poverty thresholds could affect at least three major Medicaid eligibility groups: women, infants and children up to age 6 with family incomes below 133 percent of poverty and children from age 6 to 18 with incomes at or below the poverty level (this provision is being phased in for all poor children under age 19 by FY 2002); families, children and other uninsured in the Medicaid waiver States that have extended coverage beyond current law requirements based on income in relation to the poverty guidelines; and new groups of

low-income Medicare beneficiaries who qualify for partial coverage under Medicaid. In all, people whose eligibility for Medicaid is related to the poverty line are estimated to account for about 20 percent of Medicaid recipients. Since most are in families with incomes well below the specified level, only a small fraction would actually be affected by a poverty line change. Further, most of the new enrollees would be children, whose average health care costs are low. Still, Medicaid is such a large program that even a small proportionate change in costs could involve a significant number of dollars.

The poverty guidelines are used in the Food Stamp Program to set gross income eligibility--only families with gross incomes below 130% of the poverty line are eligible for food stamps. Actual food stamp benefits are calculated based on net income, however--income after deductions for work expenses and various other things. Net income is compared to a specific benefit allotment, determined nationally for each family size, and that benefit is reduced by 30 cents for every dollar of net income the family receives. In practice, the benefit allotment for most families with incomes near the gross income eligibility limit would be small. Many families would be eligible only for zero benefits. Even where families are eligible for some positive benefits, take-up rates among those eligible for small amounts of food stamp benefits tend to be low--the hassle of getting and using food stamps exceeds their value for most such eligibles. Thus, the gross income eligibility cut-off for food stamps is more theoretical than real--families at or near 130% of the poverty line will almost always be eligible only for very low or zero benefits, and are unlikely to participate in the program. For these reasons, we would expect the effect on Food Stamp costs to be smaller than that for Medicaid.

March 27, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
ELENA KAGAN

SUBJECT: WELFARE REFORM -- PRIVATIZATION AND MINIMUM WAGE

We must soon provide guidance on two welfare reform issues of importance both to States and labor unions: (1) whether states can privatize certain administrative functions of the Food Stamp and Medicaid programs and (2) whether worker protection laws -- particularly the minimum wage (Fair Labor Standards Act) -- apply to work programs under the new welfare law. This memorandum outlines recommended approaches to dealing with these issues. The recommendation on privatization will give states part of what they want while angering unions; the recommendation on worker protection laws will please the unions while angering states.

Privatizing Food Stamp and Medicaid Administration

The new welfare law explicitly allows states to contract with private entities to administer Temporary Assistance to Needy Families (TANF). The Administration now must decide how to respond to two requests to privatize administration of other federally funded benefit programs. Texas wants to contract out, on a statewide basis, administration of both the Food Stamps and Medicaid programs; Wisconsin wants to privatize administration of the Food Stamps program in a number of counties, though the need for an administrative decision on this plan is not as pressing. Federal approval of these requests will establish a policy for other states as well.

States that want to privatize believe that a competitive contracting process will result in greater program efficiencies while adequately protecting program recipients. (Because Medicaid and Food Stamps remain federal entitlements, private contractors determining eligibility for the programs would have to follow federal eligibility rules.) Organized labor is concerned that privatizing government functions will displace state and local government workers (with a resulting loss of union membership). They also charge that privatization will harm recipients because contractors will "cut corners" in determining eligibility for benefits.

All the relevant agencies and White House offices (HHS, USDA, OMB, DPC, and NEC) believe that allowing some privatization makes sense: the question is how much. Below, after some additional background information, we outline a consensus recommendation.

Background

Federal agencies and the state of Texas have been negotiating since June 1996 over the states proposal to privatize the administration of TANF, Medicaid, Food Stamps, and certain other federally-funded nutrition programs. The state legislature passed the plan with bipartisan support, with endorsements from Lt. Gov. Bob Bullock and other leading

Democrats. Under the Texas plan, private contractors would collect information about applicants (including by conducting interviews) and make eligibility determinations. The State would retain control over the appeals and quality control processes. An estimated 15,000 state jobs would be eliminated or transferred to the private sector. The state would require bidders to comment on whether they plan to hire displaced government workers. Such companies as Lockheed, EDS, and Arthur Anderson have indicated an interest in bidding.

Texas has argued that it cannot proceed with plans to contract out TANF (as allowed by the welfare law) unless the Administration allows private contracting for Food Stamps and Medicaid, because maintaining separate eligibility systems for these programs creates administrative difficulties. To take the most obvious problem, a dual system would require many individuals to go to one location to apply for TANF and another location to apply for Food Stamps and Medicaid. Texas wants a one-stop eligibility center.

Texas state officials are becoming increasingly impatient with HHS and USDA for not having ruled on their proposal. In a recent letter to HHS, state officials threatened to proceed with the project without Federal approval. State officials also point out that they have pledged to reinvest the savings from their plan in additional health and human services programs, and that these savings could provide health coverage for 150,000 Texas children. Rep. Charlie Stenholm, one of the Administrations strongest welfare reform allies, complained about the delay to Frank Raines in a February 24th letter, saying the state of Texas is "willing to make accommodations to address administration concerns." Secretary Shalala has promised Texas an answer by early April. Most recently, we heard from Rep. Stenholms office and from Gary Mauro that Texas would accept modifications of its proposal as long as we allow the State to go forward with releasing a "request for offers" ("RFO") to potential bidders.

Labor leaders would like us to refuse the Texas request entirely. They see even limited privatization as a dangerous precedent and have made clear that they view this decision as critically important to public employee unions.

Recommendation

All the relevant agencies and White House offices agree that the Administration should draw the line on the basis of our existing Medicaid policy, which allows privatization of some but not all administrative functions. Under this approach, the application, interview, and other information-gathering can be done by private employees; the eligibility determination itself, as well as appeals and quality control, must remain in the hands of public employees. In addition, the Administration should ensure that contracts protect against the possibility that private firms will use procedures that lead to inappropriate denials -- or, as OMB notes, inappropriate grants -- of program benefits.

This general approach has both strong precedent and good sense behind it. The Medicaid program already allows private hospital workers to do intake and eligibility work, up to the point of actually determining eligibility. Allowing privatization of these functions, conditioned on appropriate contract incentives and safeguards, strikes the right balance between allowing states to explore innovative ways to deliver public services and ensuring that beneficiaries rights are protected. There is little doubt that this approach will displace some state workers and displease public employee unions. But we have crossed this bridge already in Medicaid and other contexts; for example, the Department of Labor has granted a waiver to Massachusetts to contract out all employment services and is prepared

to do the same for other states as well.

In line with this view, we recommend that we inform Texas of the principles we will apply in reviewing any privatization scheme and give formal permission to the State to issue its RFO. Once the State accepts a bid, we will review whether the contract appropriately accords with our principles. This approach gives Texas less than it asked for, but allows the State to proceed with some reforms. It preserves a role for public employees, but will still anger the unions.

II. Application of Labor Laws

As states begin to redesign their work programs to meet the work participation rates in the new welfare law, a critical question for both the labor movement and the states is whether worker protection laws -- particularly the minimum wage law (Fair Labor Standards Act) -- protect welfare recipients who take part in workfare or subsidized employment programs. The answer the Administration is ready to announce on this issue -- that as a matter of law, worker protections apply to welfare recipients as they do to other employees -- will mostly please the unions and displease the States.

Recommended Administration Position

A review conducted by the White House and relevant agencies has concluded that current law requires applying the minimum wage law and other worker protections to welfare recipients engaged in work activities. The new welfare law contains no exemptions from worker protection statutes for these individuals, leaving these protective statutes to operate as they would for any other worker. States therefore cannot, as they partly could before, set up and run work programs independent of labor laws. (The Family Support Act exempted workfare programs from the FLSA, but required work hours to be based on the minimum wage.)

The FLSA, when applied to people in workfare and wage supplementation programs, usually will require payment of the minimum wage. As long as participants in such programs count as "employees" under the Act, they will qualify for the minimum wage. A State could try to structure its program so that participants will count instead as "trainees" under the Act, because "trainees" are not entitled to the minimum wage. It will be extremely difficult, however, for states to construct programs in which participants will count as "trainees" under the FLSA and also count as performing work activities (and therefore counting toward work participation rates) under the new welfare law. As a result, application of the FLSA will usually mean that the State must pay the minimum wage to individuals in workfare programs.

The food stamp law gives states the ability to count food stamps as part of the minimum wage for some individuals engaged in workfare programs. Specifically, the state can count food stamps toward the minimum wage for welfare recipients without a child under the age of six, but not for welfare recipients with such a child. (We are checking now whether there is a legal way to allow states to count food stamps toward the minimum wage in all cases, but suspect we will not find any.) The state will be able to count the value of other benefits (child care, housing, or transportation) toward the minimum wage only when the FLSA allows the counting of such benefits for workers generally -- which is only in unusual circumstances.

In addition to the minimum wage law, the Occupational Safety and Health Act, unemployment insurance laws, and anti-discrimination laws usually will protect welfare workers; in

addition, the NLRA usually will give them organizing rights. More uncertain is how the tax code will apply to individuals in workfare and wage supplementation programs. The Treasury Department is still considering whether monies paid to welfare recipients will be subject to FICA and other taxes or would qualify for the EITC. Our 1994 and 1996 welfare bills prohibited recipients from receiving the EITC or being subject to FICA.

Anticipated State and Congressional Response

We should expect the announcement of Administration policy to provoke strong criticism from the states and Congress. On March 3rd, Governor Whitman wrote in a letter to you that applying minimum wage laws to workfare participants would "end welfare reform as we know it" by placing states in the position of either failing to meet the laws work requirements or incurring large new costs. Even The New York Times editorial board, in discussing union plans to organize workfare participants, has opined that "what they are doing does not amount to a job" -- a view consistent with what many States and members of Congress will be saying.

The reason states will protest is obvious: applying minimum wage laws will increase the cost of running workfare programs. (Of course, requiring the minimum wage will not make it more expensive for states to help welfare recipients find unsubsidized private sector jobs or to subsidize private sector jobs.) In 36 states, the current cash welfare benefit for a family of three will fall short of a minimum wage salary even for a 20-hour work week. As the work requirement in the law increases to 25 and then to 30 hours, and as the minimum wage also increases, 48 states (all but Hawaii and Alaska) will discover that their welfare grants are insufficient. (See attached document.)

Counting the value of food stamps will ease this difficulty, to the extent that states can do so. (As noted above, states may not be able to count food stamps for individuals with children under six.) But even if both TANF and food stamp benefits are counted toward the minimum wage, Mississippi will immediately come up short. As the minimum wage increases and the work requirements increase to 30 hours, a total of twenty states will find themselves in this position.

This policy is a mixed blessing for recipients. The increased expense of public employment will encourage state efforts to find private sector jobs for welfare recipients -- a policy we believe is desirable. But that same expense also may encourage states to cut recipients from the welfare rolls sooner, rather than place them in public sector jobs.

There is little doubt that once we announce our reading of the law, efforts will begin in Congress to exempt workfare programs from worker protection laws entirely or to enact more limited "fixes." We will have to track these efforts carefully and decide, as we gain more information, how to respond to them.

MEMORANDUM TO GENE SPERLING

FROM: ANNE LEWIS

CC: EMIL PARKER

RE: WELFARE REFORM AND TEXAS

DATE: MARCH 18

Kathy Wallman suggested that I give you an update on the status of the internal discussions about Texas privatization efforts.

The process seems to be moving forward very slowly. According to the DPC, they are preparing an options memo for the President which will present the legal considerations, options for responding to Texas request and recommendations from DPC, NEC and OMB.

I have flagged very clearly for Elena Kagan that you may have some concerns about wholesale privatization.

Emil and I are trying to track down more precise information about a range of issues, including what incentives intake workers would fact, and will prepare a discussion memo for you later this week.

July 2, 1997

MEMORANDUM FOR SECRETARY RUBIN
SECRETARY DALEY
SECRETARY SHALALA
ADMINISTRATOR ALVAREZ
DIRECTOR RAINES
CHAIR YELLEN
CHAIR BROWN
DEPUTY SECRETARY SUMMERS
JOHN DWYER
JOHN HILLEY
CHARLES RUFF
BRUCE LINDSEY
BRUCE REED
ELENA KAGAN
ERSKINE BOWLES
JOHN PODESTA
SYLVIA MATTHEWS
RON KLAIN
CHARLES BURSON

FROM: GENE SPERLING

SUBJECT: Draft product liability memo

Attached is a draft memo to the President on federal product liability law, based on our discussions last week. We ask two things: (i) your comments, edits and thoughts; and (ii) your choice among the three recommendations set out.

Ideally, we would like your response by noon tomorrow, July 3. Please forward comments to Ellen Seidman of my staff, who can be reached at 456-5359 or by fax at 456-1605. We apologize for the short timeframe, but we are attempting to get this memo in to the President before he leaves Washington tomorrow evening. Even noon is going to be hard; we hope the memo is sufficiently reflective of our discussions that turning it around in time is feasible. Please call me if you have any serious problems with this time frame.

Thank you all for your help, and for that of your staffs, in getting through this process.

cc:

Andrew Pincus Michael Deich
Jeffrey Hunker Steve Aitken
Fran Allegra Tim Brennan
Donald Remy Tracey Thornton
Tom McGivern Peter Jacoby
Ed Murphy Bill Marshall
Ron Matzner Lisa Brown
Pam Gilbert

1.1111

Product Liability Working Group
Page 1
April 27, 1998*MEMORANDUM

To:
Product Liability Working Group

From:
Sally Katzen
Sarah Rosen

Subject:
Final Decisions on Gorton Proposals

Date:
April 27, 1998

After the meeting between Chief of Staff Erskine Bowles, Counselor Bruce Lindsey, Counsel to the Vice President Charles Burson, Senators Gorton and Rockefeller, and staffs, on March 13, 1998, there remained a variety of technical issues outstanding. We will meet on _____, in Room ____, at ____ pm to discuss the options. If you are unable to join us, please indicate your views on the option matrices below and forward them to Sarah Rosen in Room 235.

Outstanding Issues

1. Findings Language

We agreed to send Senator Rockefeller's staff changes to the findings language proposed by Senator Gorton. DoJ staff was of the view that some findings would be helpful in defending the Act, if challenged. ATTACHMENT A is a revised staff draft that attempts to limit any concerns that we are still conceding too much. (ATTACHMENT B is the Gorton proposal for your reference.)

Options: _____ A -- Refuse to have Findings
_____ B -- Findings as per ATTACHMENT A
_____ C -- Findings as per ATTACHMENT A revised (provide recommended changes)

2. When to Apply the Small Business Test

The bill does not specify the time at which a company qualifies as a small business for the cap on punitive damages. Should we measure the net worth, revenues, and number of employees at the time the product was manufactured or sold or at the time of the lawsuit?

To the extent that the purpose of punitive damages is to allow small companies to innovate in product design and manufacture, the time for measuring whether the company qualifies for the cap should be as close to the time of manufacture as possible. However, a single phrase may not cover each of the steps from design, construction, storage, etc. that could give rise to product liability. DoJ staff propose instead that the test be applied at the time of sale (See ATTACHMENT C), which is far easier to establish and, in most cases, will be close to the time of manufacture. Others propose using the time of the lawsuit as the measuring point, arguing that, if the harm from a product is not discovered for many years, a large company with significant assets at the time of the suit, but which was small at the time of manufacture, should not benefit from the cap on punitive damages.

Options: _____ A -- Time of sale (ATTACHMENT C)
_____ B -- Time of lawsuit

3. Request to Delete Section on "Defense Based on Claimants Use of Alcohol or Drugs"

Senator Gorton proposed to make the following change:

"...[I]t shall be a complete defense if the defendant proves that the claimant ... as a result of the alcohol or drug, was more than 50% responsible for such harm such accident or other event."

The Administration rejected this change, arguing that product liability should only be reduced where the person under the influence was responsible for a significant portion of the harm that they suffered. We cited the following hypothetical: an intoxicated driver backs his car at 5 M.P.H. into a wall in a parking lot and the gas tank explodes. While largely responsible for the accident, the driver was only marginally responsible for the harm.

Senator Gorton then asked to delete the entire section. Apparently he wishes to avoid preempting state law in those states where the manufacturer has no liability if the plaintiff was more than 50% responsible for the accident.

Industry advocates also argue that this provision would effectively preempt some state comparative/contributory negligence regimes and have the ironic effect of providing the intoxicated individual a better result than one not intoxicated whose recovery would be governed by some state comparative/contributory negligence regimes which turn on the accident, rather than the harm. Specifically, in a state with a comparative/contributory negligence regime where damages hinge on responsibility for the accident rather than the harm, preemption for cases involving alcohol and drugs could result with a person, who was not intoxicated but was more than 50% responsible for the accident, not receiving any damages, but, an intoxicated person (50% responsible for the accident but not 50% responsible for the harm) receiving damages.

Another approach would be to clarify in legislative history that this provision is only intended to address liability, not damages, and thus is not expected to preempt state

comparative/contributory negligence regimes.

In considering whether to accede to Senator Gortons request, we also must think first about the precedent set when, after we refuse to accept a change that is substantive in nature, we nonetheless agree to eliminate the provision, particularly a provision that is popular with the anti-drunk driving community and the public at large (to the extent they are familiar with the legislation at all). Second, if the Administration is willing to endorse a federal preemptive statute and believes that the rule established is the proper balance of responsibility for drunk drivers and accountability for product manufacturers, we should be comfortable having it preempt contrary alcohol and intoxication defenses. Any inequity that results could be viewed as stemming from the state regimes link to accident rather than harm.

Options: _____ A -- Insist they leave it in
_____ B -- Agree to delete
_____ C -- Draft legislative history

4. Proposed Changes to Language on "Reduction of Damages for Misuse or Alteration"

The bills language on "Reduction of Damages for Misuse or Alteration" provides that damages shall be reduced by the percentage of responsibility attributable to use or alteration of a product contrary to adequate express warnings or involving a risk that was known or should have been known by an ordinary user. Senator Gorton had proposed language that said that damages could only be reduced after liability had been determined, but the Administration rejected that change as implicitly ordering defenses. The Senator then asked to add language in two places that reads: "Nothing in this section shall preclude consideration of misuse or alteration for purposes of determining liability."

This language does little more than what is done by Section 102(b) on preemption. ("This title supersedes a state law only to the extent that the State law applies to a matter covered by this title. Any matter that is not governed by this title ... shall be governed by any applicable Federal or State law.") The language of this section clearly speaks to damages, with no reference to determinations of liability. Arguably this is not a substantive change, nor does it raise two-way preemption issues. However, in other places in the bill, the Administration has rejected efforts to clarify the scope of preemption.

In addition, under some state regimes, misuse or alteration is not merely a basis for reducing damages but is a basis for precluding liability, which the Administration had argued was inappropriate Federal policy. By all accounts, those state regimes will survive the current bill. By adding the language proposed by Gorton, we may appear to be endorsing that result.

Options: _____ A -- Agree to add language
_____ B -- Refuse to add language

5. Revised Proposal on "Extension of 18-Year Statute of Repose"

The legislation creates a two-year Statute of Limitations from the date on which the claimant discovered or should have discovered the harm and its cause. Furthermore, it creates a Statute of Repose (for durable goods in the workplace only) under which no product liability action may be filed after the 18-year period beginning at the time of

delivery of the product to the first purchaser or lessee. Finally, the legislation explains how these two provisions interact. Specifically, it provides that, if the claimant discovers the harm from a durable good at any time within the 18-year statute of repose period, the claimant has the full two-year statute of limitations period to file the action.

After earlier changes were rejected, Senator Gorton asked whether we would consider adding language for this section that would read:

"EXTENSION OF 18-YEAR STATUTE OF REPOSE.--If the harm leading to a product liability action described in subsection (a) occurs during the 2 years prior to the expiration of the 18-year period, then the product liability action may be commenced within two years after the harm occurs."

Staff believe that the addition of this language significantly confuses the statute. It ignores the aspect of the Statute of Limitation language that measures time from when not only the harm, but also its cause, are discovered. Similarly, it does not include exceptions in the bill to the Statute of Limitations provisions for a person with a legal disability or subject to a stay or injunction.

Options: _____ A -- Agree to add language
_____ B -- Refuse to add language

6. Proposed Changes to Workers Compensation Subrogation Provisions

In general, the workers compensation subrogation provisions (like most state laws) give the workers compensation insurer of an employee a right to recover from a manufacturer or product seller any benefits paid by the insurer to the employee relating to harm from a product. However, the bills provisions would reduce the damages recoverable by the insurer from the manufacturer or product seller, if the employers fault was a substantial factor in the harm. Generally, this policy is thought to benefit workers, as it gives an incentive to workers compensation insurers to motivate employers to protect workers from potential harm from products in the workplace.

Last fall, a working group of workers compensation experts (including the AFL-CIO) got together at Senator Rockefeller's request to review the workers compensation subrogation provisions in the Administration-Rockefeller agreement. The changes to these provisions proposed by Senator Gorton stem from those discussions. The Administration previously accepted two of the changes -- one deleting a provision which directed the order in which a trier of fact should consider issues and the other of which limited the reduction of damages based on employer harm to cases where that harm was a "substantial factor" in the harm. The remainder of the changes are assessed below.

The position of the AFL-CIO on these provisions and proposed changes is unclear. Although the AFL-CIO opposes product liability legislation in general, their staff initially worked with Senator Rockefeller, on the working group described above, to improve these provisions. More recently, AFL-CIO staff have recanted their support for even this section, allegedly because it would reduce the manufacturers liability; however, it appears that they have now realized that the provisions would prevent "double recovery" which they believe does occur sometimes under current law. Senator Rockefeller's staff reports, however, that AFL-CIO President Sweeney assured the Senator that the AFL-CIO's position has not changed and that, while they do not support the legislation, they do support the

workers compensation subrogation provisions as modified by the changes described below.

a. Notification to Employer of Settlement

The Rockefeller working group recommended eliminating a provision in Section 113(a)(2)(B) that required the claimant to notify the workers compensation insurer before entering into a settlement with a manufacturer or product seller. They argued that the claimant already has this obligation as a result of having filed a claim with the insurer pursuant to state workers compensation law. However, no one appears to have done a survey of all state laws and workers compensation claim agreements to be sure that this is always the case. Without such a survey, staff see a mild benefit from retaining the language which will help ensure that the subrogation provisions work as expected.

Options: _____ A -- Insist they leave it in
_____ B -- Agree to delete

b. Notice to Insurer By Product Manufacturer or Seller

The Rockefeller working group proposed changes to Section 113(a)(3)(A) that would clarify that, to seek a reduction in damages due to employer fault, the manufacturer must notify the insurer that it is raising the issue with the court. Simply raising the issue of employer fault during the trial is not sufficient. This appears to be a reasonable technical change to assure fair notice to affected parties.

Options: _____ A -- Agree to add language
_____ B -- Refuse to make changes

c. Reduction of Damages by Amount of Claimants Benefits

The Rockefeller working group proposed amending the language as follows:

"[i]f the trier of fact finds by clear and convincing evidence that the fault of the employer was a substantial factor in causing the harm to the claimant that is the subject of the product liability action ... the court shall reduce by the amount of the claimants benefits (including amounts to be paid pursuant to state workers compensation law for benefits received prior to the date of final judgment in the product liability action) :

- (I) the damages awarded against the manufacturer or product seller; and
- (II) any corresponding insurers subrogation lien...."

In product liability cases involving harm to a worker, the workers compensation insurer already will have paid the worker for lost wages, training and rehabilitation, and medical expenses incurred prior to the product liability award, but there may be ongoing workers compensation benefits that will have to be paid. It is not fair to the worker to reduce the damage award by some amount expected to be paid in workers compensation in the future, since estimates could well be wrong and the worker will end up with the damages reduced and no substitute compensation. Therefore, Senator Gortons proposed change would reduce the claimants benefits by an amount that can be fixed at the time -- the amount of benefits already incurred. The current bill uses the amount of benefits already paid (since the definition of "claimants benefits" only includes amounts paid). It would give the insurer an incentive to delay paying benefits, so as to not reduce as much the amount of their subrogation lien. The working groups revised language would avoid that problem.

Options: _____ A -- Agree to add language
_____ B -- Refuse to add language

D. Future Credit Rights

Under current law, an employer is not obligated to make workers compensation payments (including payments for both lost wages and health care) to an employee who has received a judgement in a product liability action that is intended to compensate that employee for the harm caused by the workplace accident. Such payments would represent "double recovery" to the employee. Instead, what happens is that the employee continues to submit claims to the insurer, who denies payment on the basis of its "future credit rights" against the judgement in the product liability action. There has been some question raised whether the current language was intended to change these credit rights. Thus, to clarify the intention, the Rockefeller working group recommended adding new language that reads:

"The insurer shall not lose, and this Act shall not affect, any rights to credit against future liability established pursuant to state workers compensation law."

Although this language would be salutary, our position on this issue should be consistent with our position on item 4 above ("Reduction of Damages for Misuse or Alteration"), since in both cases we are being asked to clarify how the Federal law would interact with state laws.

Options: _____ A -- Agree to add language
_____ B -- Refuse to add language

E. Rules of Construction

The Rockefeller working group proposed adding two rules of construction that they said "are completely consistent with the other provisions in this section. They are intended to assure that the provision is not misconstrued in a manner that could harm the employee or the employer as compared with current law."

The first rule provides:

"This section, when invoked, shall not be construed to reduce the total award received by a claimant in a product liability action below the amount that would otherwise be received pursuant to state law."

If by "total award received by the claimant" they mean the product liability award less the compensation insurers subrogation lien, the effect is that the employees net recovery not be reduced below the level provided for by state law. In view of the numerous differences between workers compensation statutes of the various states, this provision could serve as a type of insurance against unintended effects of the legislation. If so, the phrase "total award received" should be replaced with "net recovery."

This rule of construction benefits employees. The second rule (discussed below), about which we have real concerns, benefits employers. If we decide to reject the second rule, Gorton and Rockefeller may reasonably argue that we should either add both or neither.

Options: _____ A -- Add rule of construction, modified by "net recovery"

B -- Reject rule of construction

The second rule provides:

" This section, when invoked, shall not be construed to increase the liability of an employer above the amount that would otherwise be incurred pursuant to state workers compensation laws."

It is unclear what this provision will do. Under current law in some states, when a manufacturer is liable for an amount that exceeds the total workers compensation benefits, the insurer can recover all the compensation benefits paid, regardless of the employers fault. However, under this bill, the liability of the insurer of an at-fault employer would increase (i.e., the insurer could not reduce its liability by asserting a subrogation lien). Thus, the statement seems inconsistent with the intent of the statute. The intention may be that the gross liability of the insurer not be increased above that under state law, but the language is unclear. Given the ambiguity, it may be better to reject this change unless they can propose clear language.

Options: A -- Add rule of construction, modified by "gross liability"

 B -- Reject rule of construction

F. Attorneys Fees

The Rockefeller working group proposed an amendment to the bill agreed to between the Administration and Senator Rockefeller:

"(b) ATTORNEYS FEES -- If, in a product liability action that is subject to this section, the court finds that harm to a claimant was not caused by the fault of the employer (or a coemployee of the claimant), the court may require the manufacturer or product seller shall to reimburse the insurer for reasonable attorneys fees and court costs incurred by the insurer in the action, as determined by the court."

The substantive change As noted below, changes need to be made throughout the bill to consistently eliminate references to "coemployees" because such persons are included in the definition of employer. 1 proposed involves giving the court discretion to order reimbursement of attorneys fees, which would be mandatory under the current bill. With the workers compensation provisions of this legislation, manufacturers may be motivated to allege employer fault to reduce their liability, potentially increasing significantly the legal expenses of workers compensation insurers in enforcing their liens. The mandatory attorneys fees provision in the current bill mitigates this effect by encouraging product manufacturers and sellers to raise the issue of employer fault only where it is reasonably clear that the employers fault was, in fact, a substantial factor in causing the harm. The proposed change (to discretionary award of attorneys fees) would reduce somewhat the deterrent effect of the current attorneys fee provision.

Options: A -- Accept change (discretionary attorneys fees)

 B -- Reject change (mandatory attorneys fees)

DOJ staff reviewing the bill have also raised questions about the attorneys fees language in the Rockefeller-Administration agreement. They point out that Section 112(a)(3)(C) provides that damages are reduced and the lien is defeated only if the trier of fact finds by clear and convincing evidence that the employers fault was in fact a cause of the

injury. In Section 112(b), however, the compensation insurers attorneys fees would be reimbursed only if the court finds that the injury was not caused by the employers fault. Thus, Section 112(b) fails to be clear about who makes the decision, the burden of proof, and the nature of the burden of proof. While it could be read to be consistent with 112(a)(3)(C), the statute does not require that outcome. If we wish to reopen the language agreed to with Rockefeller, DOJ suggests the following revision:

"(b) ATTORNEYS FEES -- If, in a product liability action that is subject to this section, a manufacturer or product seller seeks to prove that the harm to the claimant was in substantial part caused by the fault of the employer, but fails to meet its burden of proving such fault, the court shall require that the manufacturer or product seller reimburse the insurer for reasonable attorneys fees and court costs, as determined by the court, incurred by the insurer in litigating the issue of employer fault."

Options: A -- Leave as is
 B -- Substitute DOJ revised language

7. Biomaterials Changes from Senator Lieberman

In the 1996 veto message, the President said that he could not support biomaterials provisions that protected suppliers when they knew or should have known that the material they were supplying was unsuitable for the purpose intended. A new impleader section of the bill largely addressed this concern by allowing the court to bring back into the case, after final judgement, a supplier whose negligence or intentionally tortious conduct was a cause of the harm. However, the standard required that the court find, based on "clear and convincing evidence," that the negligence or tortious conduct was the actual and proximate cause of the harm and either the manufacturers liability should be reduced because of the negligence or tortious conduct or the manufacturer is insolvent. The White House remained concerned that the clear and convincing evidence standard was too restrictive.

Senator Liebermans staff have provided us with a set of proposed changes to the biomaterials title of the bill. (See ATTACHMENT D.) Most of the changes are beneficial or unobjectionable. The most important change is to eliminate the clear and convincing evidence standard (See Section 207(a)(1) and (2) at pages 58-59 of the bill). Instead, the court would make a finding "based on the courts independent review of the evidence...." The change accomplishes what the Administration had stated as its objective. The Administration had also sought to change the provision to allow the impleader of the supplier during trial, rather than wait until after final judgement. This change was not made by Lieberman despite our earlier request. Further requests for modifications from the Administration may not be well received.

Options: A -- Accept change
 B -- Accept change, but attempt to reopen issue of timing of impleader

One area where HHS will want us to resist the new Lieberman changes is in the procedures for dismissal of actions against biomaterial suppliers (Section 206(a) at page 57 of the bill). This provision says that, if a claimant has filed a petition for a declaration from the Secretary of HHS that the supplier was required to have registered with the Secretary or include the implant on a list of devices filed with the Secretary, the court shall stay the proceedings until the Secretary has issued a final decision on that petition. The

Lieberman changes add language requiring the Secretary to complete review of any such petition within six weeks of receipt of the petition.

Although we have no idea what the volume of petitions will be under this provision, the FDA believes that six weeks is impossibly short. Senator Liebermans staff has indicated a willingness to consider a longer period. We could ask for 120 days and be prepared to accept 90 days.

Options: A -- Seek to extend time period to hear petition
 B -- Accept change

8. Lott Request to Expand Biomaterials Section to Cover IVS and Catheters

Senator Gorton asked, on behalf of Senator Lott, whether the Administration would consider amendments to the biomaterials provisions to cover raw materials and component parts of IVs (intervenous apparatuses) and catheters. There was no mention during the biomaterials hearings of a problem for IVs and catheters like the problem that exists for other medical implants -- a shortage of component parts or raw materials due to limited profits and large litigation risks.

DoJ staff asked Senator Liebermans staff if they were aware of any evidence of such problems with these products. They replied that there are two primary manufacturers of IVs in this country, Abbot and Baxter, although there are foreign producers. (Baxter is pressing for this amendment; Abbot is not.) Baxter has a raw material supplier which was recently acquired by another firm. Although there has been no litigation against the materials supplier, the new parent has expressed some discomfort with the product and is only allowing the supplier to enter into short-term contracts. There is an alternative supplier, although Baxter would have to retool their machinery to use the other material. (See ATTACHMENT E for Baxters talking points in support of the amendment.)

This seems to be a far different issue than heart valves or jaw implants, for example, of which only a few hundred are used each year, for which materials suppliers face a demonstrated litigation threat, and where there is a current danger of product unavailability.

Options: A -- Broaden scope to cover IVS and catheters
 B -- Reject change

Miscellaneous

9. Clarification on ADR

The current bill provides in Section 109(a) that, where state law provides for ADR procedures, the defendant shall serve notice to the claimant of the applicability of the ADR procedures. Section 109(c) provides that, after the claimant or defendant files an offer to proceed under the ADR procedures, the other party shall file a written notice of acceptance or rejection of that offer.

During the Bowles-Rockefeller-Gorton meeting, Gorton sought, and the Administration agreed, to insert a provision in Section 109(c) that reads: "Such notice shall not constitute a wavier of any objection, including on grounds of jurisdiction or otherwise." However,

subsequent conversations with Rockefeller staff suggest that Gorton and others may have thought we were agreeing to his suggestion that we delete the initial notification provision in Section 109(a), which we did not intend to do. We will clarify our intent with Senator Rockefeller and Gorton.

10. Definition of Alcoholic Product

The bill excludes from preemption civil actions brought under a theory of dram-shop or third-party liability arising out of the sale of alcohol products to an intoxicated person or minor. We agreed to a change proposed by Senator Gorton, and concurred in by Mothers Against Drunk Driving, to change the term "alcoholic beverage" to "alcoholic product" to deal with things like alcoholic Jell-O squares. However, we now need a definition of "alcoholic product." After consulting with MADD, we have proposed:

"The term "Alcoholic Product" includes any product that contains not less than of 1 percent of alcohol by volume and is intended for human consumption."

11. Coemployee

Senator Gorton proposes to delete the phrase "or coemployee" from the phrase "employer or co-employee" in a few places, because the term employer includes all employees of a company (including co-employees) and may include contractors. Referencing coemployees but not other subgroups could be misinterpreted as an intent not to include other persons within the term "employer." We agree and will search the bill for all references to ensure consistency.

12. Due Process Clause

The Administration refused to agree to amend the Congressional "Findings" language to include reference to the Due Process Clause. Senator Gorton asked us to provide in writing the rationale for not doing so. DoJ staff drafted the following language:

If the authority for the statute rests on the Due Process Clause, the statute would be subject to challenge under the theory enunciated by the Supreme Court in *City of Boerne v. Flores*, 117 S.Ct. 2157 (1997). In that case, the Supreme Court declared the Religious Freedom Restoration Act (RFRA) unconstitutional. It held that Congress enforcement power under the Fourteenth Amendment extends only to "enforcing" provisions of the Amendment, not to the power to determine what constitutes a constitutional violation. In applying this concept to invalidate RFRA, the court concluded that the statute was not designed to counteract state laws likely to be unconstitutional, was out of proportion to the supposed remedial or preventative object, and displaced laws in almost every level of government thereby constituting a congressional intrusion into states traditional prerogatives. Invocation of the Due Process Clause as support for the product liability legislation could easily lead to a similar conclusion.

ATTACHMENTS

Addressees:

Bruce Lindsey, Counsel
Charles Burson, Counsel to VP

Peter Jacoby, OLA
Michael (Buzz) Waizkin, Counsel
Maria Echaveste, OPL
Michael Deich, OMB
Alan Rhinesmith, OMB
Fran Allegra, DOJ
Pam Danner, CPSC
Ellen Seidman, OTS
Andy Pinkus, COM
Elena Kagan, DPC
Paul Weinstein, DPC

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July 22, 1997

MEETING ON PRODUCT LIABILITY

DATE: July 23, 1997
TIME: 11:25am-12:00pm
LOCATION: Oval Office
FROM: Bruce Lindsey
Gene Sperling

I. PURPOSE:

To consider issues raised in our memo of July 3 (attached), so as to develop an Administration position on this legislation, and strategy for working with interested parties.

II. BACKGROUND:

In 1996, you vetoed products liability legislation, citing specific problems with the bill as passed. In May, the Senate Commerce Committee reported out a slightly revised version of that bill, which the Republicans would like to move this year. Senator Rockefeller has refused to sign on to the new bill, strongly preferring to reach an agreement with the Administration to avoid another veto. Senator Breaux and Mr. Dingell are also highly interested. At your request, we established and completed a two-month interagency process to develop options, which were described in our July 3 memo. Your response to that memo, which requested a meeting, was "OK - ready to meet"

III. PARTICIPANTS:

Erskine Bowles
Bruce Lindsey
Gene Sperling
Janet Yellen
Frank Raines
John Hilley
Ron Klain
Elena Kagan
Ellen Seidman
John Podesta
Sylvia Mathews

Chuck Ruff
Chuck Burson

V. PRESS COVERAGE:

None

VI. REMARKS:

None

September 17, 1997

MEETING ON PRODUCT LIABILITY

DATE: September 18, 1997

LOCATION: Oval Office

TIME: 4:30pm-5:00pm

FROM: Bruce Lindsey

Gene Sperling

I. PURPOSE:

For an internal meeting between you and your advisors to discuss and reach a position on Senator Rockefeller's and Mr. Dingell's separate proposals on product liability reform.

II. BACKGROUND:

Following an internal meeting on July 23, at which you established the Administration's position on this issue, we have held a series of meetings with Rockefeller and Dingell staff and, at times, the Members. On September 5, Senator Rockefeller presented us a proposal that adopts the Administration's position on several liability for non-economic damages (i.e., there is no provision); limits the statute of repose to durable goods in the workplace covered by workers compensation; and has no large business cap on punitive damages.

On the other hand, the Senators' bill would not require punitive damages to be allowed in the seven states (including Washington state) that generally do not allow them, and has several more minor problems. In addition, Senator Rockefeller did not adopt our proposed position on limiting protective orders, the most consumer-friendly part of our proposal. While the Senators' staff has indicated he would fix most of the minor problems, including tightening the small business cap on punitives, he will not move on requiring all states to allow punitives, and is unlikely to add the protective order provision without a lot more prodding. Mr. Dingell's position is less defined, but he would include a firm 18-year statute of repose for all goods, which Senator Rockefeller will not support.

III. PARTICIPANTS

Vice President

Erskine Bowles

John Podesta

Sylvia Mathews

Bruce Lindsey
Gene Sperling
Chuck Ruff
Ron Klain
Elena Kagan
Ellen Seidman
Peter Jacoby
Tracey Thornton

IV.PRESS PLAN

Closed

V.SEQUENCE OF EVENTS

You will be meeting with your advisors to discuss product liability reform.

VI.REMARKS

None required

February 27, 1996

Leon --

Here are two notes from the President on partial birth -- one asking for examples of what we mean by "serious adverse health consequences" (I have asked Elena Kagan, who works with Jack on this issue, to work on this); the other questioning whether we should send the old partial birth letters prepared last month to Eleanor Smeal and Cardinal Hickey (we shouldn't -- they should probably get copies of what we're sending to the Hill).

Re roll out of partial birth letters: my understanding is that Alexis is going to brief groups on this today and that Legislative is going to brief selective Members, but neither Alexis nor Legislative will share the actual letter; that we will leak the letter to the press this evening; and that the letters will actually be sent to the Hill tomorrow morning.

This is George's desired game plan and he is closing the loop on it with Alexis. So unless I hear differently, I am holding the signed letters until tomorrow morning. (I have given unsigned copies to Alexis and Legislative to assist them in their briefings.)

Todd

November 24, 1997

TO: DISTRIBUTION LIST

FROM: ANN LEWIS

SUBJECT: RACE PSAS

Enclosed are scripts of two 30 second public service announcements being produced in New York this week. Original scripts circulated last week and were tested in mall intercepts in Philadelphia, PA and Columbus, OH amongst target 17-25 year olds. The scripts reflect the test results. The visuals will feature a series of young people speaking. The PSA will be available for broadcast on December 2, and C-SPAN has offered to play it immediately before and after the Town Hall on December 3.

Please let me know if you have any questions or comments.

Sylvia Mathews
John Podesta
Rahm Emanuel
Paul Begala
Doug Sosnik
Mike McCurry
Amy Weiss Tobe
Craig Smith
Sidney Blumenthal
Michael Waldman
Mickey Ibarra
Maria Echaveste
Goody Marshall
Gene Sperling
Bruce Reed
Elena Kagan
Cheryl Mills
Stacie Spector
Beverly Barnes
Vicki Radd
Tom Janenda
Minyon Moore

June 15, 1998

ADDRESS TO 1998 PRESIDENTIAL SCHOLARS

DATE: Monday, June 15, 1998
LOCATION: The White House
TIME: 2:30 PM - 3:30 PM
FROM: Thurgood Marshall, Jr./Kris Balderston
Bruce Reed/Elena Kagan

I. PURPOSE

To address the 1998 Presidential Scholars, their parents, distinguished teachers, and the Commission on Presidential Scholars, and to reiterate your call to the Congress to swiftly pass tobacco legislation to reduce youth smoking.

II. BACKGROUND

This is an opportunity to call upon the Senate to pass bipartisan tobacco legislation this week. It has been nearly a year since the state attorneys general's proposed settlement brought comprehensive tobacco legislation to the Congress, and a month since the full Senate began to consider the issue. With two of the most contentious issues now resolved -- tax cuts and anti-drug funding, due to the Gramm and Coverdell amendments adopted last week -- we are hopeful that the Senate can reach final passage by the end of next week.

The McCain bill is a good strong bill that will cut youth smoking in half and save a million lives over the next five years. We have worked to secure several important improvements to the McCain bill -- including stronger lookback surcharges, stronger environmental tobacco smoke protections, elimination of the antitrust exemption and of liability protection for parent companies, and substantial funding for public health research, states, and tobacco farmers -- and the Senate is moving forward with additional improvements. The Senate has authorized additional uses for tobacco revenues -- with amendments on veterans health, drug prevention, and targeted tax relief -- while keeping intact the core efforts to reduce youth smoking and protect the public health.

The Presidential Scholars Program

The United States Presidential Scholars Program was established in 1964, by an Executive Order of the President, to recognize and honor some of our Nation's most distinguished graduating high school seniors. In 1979, the Program was extended to recognize students who demonstrate exceptional talent in the visual, creative, and performing arts.

President Johnson opened the first meeting of the White House Commission on Presidential

Scholars by stating that the program was not just a reward for excellence, but a means of nourishing excellence.

Each year, up to 141 students are named by a White House Commission as Presidential Scholars, one of the Nation's highest honors for high school students. The Scholars are chosen on the basis of their accomplishments in many areas--academic and artistic success, leadership, and involvement in school and the community. The scholars represent excellence in education and the promise of greatness in young people. In honoring the Presidential Scholars, you symbolically honors all graduating high school seniors of high potential.

Presidential Scholars from Arkansas

Danielle Smith, Arkansas School for Mathematics and Science, Mena, AR. Plans to attend MIT and major in chemical engineering; flutist and guitarist; photographer; an only child and father with paraplegia.

David Norris, Parkview Arts and Sciences Magnet, Little Rock, AR. Plans to attend Vanderbilt and major in engineering and music to become an acoustical engineer designing concert halls and other public facilities; heavily involved in church activities (musical accompanist and choir); father is pastor of a congregation in an underprivileged area of town.

Previous Participation

For the past thirty-three years of the program's existence, all the Presidents, with the exception of President Nixon, have participated in the Presidential Scholars Medallion Ceremony or the week's activities. You have participated each year.

III. PARTICIPANTS

Pre-Brief Participants:

YOU
Secretary Donna Shalala
Thurgood Marshall, Jr.
Bruce Reed
Kris Balderston
Elena Kagan

Meet and Greet Participants:

YOU
Secretary Donna Shalala
Thurgood Marshall, Jr.
Bruce Reed
Kris Balderston
Elena Kagan

Members of the Commission on Presidential Scholars. Please see the attached list.

Event Participants:

YOU
Bruce Reed
1998 Presidential Scholars. Please see the attached list.

IV. PRESS PLAN

Open Press

V. SEQUENCE OF EVENTS

YOU meet Presidential Commissioners and staff in the Diplomatic Reception Room.

YOU are announced to the stage in the tent.

Bruce Reed makes remarks and introduces YOU.

A Social Aide announces the beginning of the award presentation and reads the names of each recipient as they cross the stage to shake YOUR hand.

Upon conclusion of the award presentation, YOU return to the podium to congratulate award recipients.

YOU depart.

VI. REMARKS

Provided by Speechwriting.

March 10, 1998

MEMORANDUM TO THE PRESIDENT

FROM:Chris Jennings

SUBJECT:Events Surrounding Thursdays Final Quality Commissions Meeting

cc:John Podesta, Rahm Emanuel, Bruce Reed, Elena Kagan, Larry Stein

This memo outlines a possible communications and political strategy for the Quality Commissions release of their final report and the unveiling of the Democratic Leadership's "Patients Bill of Rights." Both of these events could occur on Thursday or Friday. The challenge is how best to build on the momentum from your extremely well-received speech to the American Medical Association, today's New York Times editorial that praises your prudent approach to passing a reasonable approach to the patients bill of rights that includes, and from Speaker Gingrich's acknowledgment yesterday that he expects that quality legislation will likely pass the Congress this year. These upcoming events have the potential to build on or detract from this momentum. The Quality Commissions final report presents another opportunity to highlight this issue and endorse new measures to improve health care quality. However, while your Commission has been successful by any measure, part of the news from their final meeting will likely be that they were unable to achieve consensus on the enforcement issue. The unveiling of the Democratic bill highlights the party's unity on this issue. However, the Democratic bill does go significantly further than your Commission in areas that have the potential to raise costs. To strongly endorse it has the potential to undermine your positioning and alienate key Republicans.

Democratic Leadership's "Patients Bill of Rights"

As you know, the Democratic Leadership is currently scheduled to release their "patients bill of rights" legislation on Thursday. Their bill uses your Quality Commissions recommendations as a foundation and includes nearly all of the key protections you endorsed last November. However, this legislation builds on these protections in ways that could prove to be costly and will no doubt incite major opposition from the business community. It includes a number of mandated benefits such as requiring health plans to offer a mandatory point-of-service option, and cover breast cancer reconstructive surgery, 48 hours stays following mastectomies, and coverage of all clinical trials. These provisions will no doubt be criticized by elite validators and could also prove to be quite costly.

While CBO has yet to score any of these additional provisions, they could prove to be quite costly. For example, the initial estimates by the HCFA actuaries assume that applying the bill's provision to cover all clinical trials to Medicare and Medicaid -- generally consistent with our previous statements that we should not ask the private sector to do anything Federal health programs would not do -- would cost Medicare approximately \$5 billion over five years and Medicaid \$4 billion over five years. Any costly scores from CBO would no doubt lend credence to criticisms that a patients bill of rights would increase health care costs and as a consequence increase the number of uninsured.

The most controversial provision in the Democratic bill is the enforcement mechanism that allows remedies through state courts. The Administration has consistently stated that these rights must be assured but has yet to take an official position on the best enforcement mechanism. Judicial enforcement will no doubt incite strong opposition from the business community, who will argue that vulnerability to litigation will cause many employers to drop coverage altogether. Their opposition in this regard may prove enough to undermine the effort to enact any quality legislation. CBO has also yet to score this type of enforcement provision. Taking an official position on this potentially expensive enforcement before CBO releases its final analysis on the cost of this provision will leave the Administration extremely vulnerable. However, rights without remedies are meaningless. They are watching. The question is whether there is a possible compromise position. We believe that it is premature to make this determination before CBO releases its cost estimates on these provisions.

CBO has indicated that the provisions included in your "patients bill of rights" is likely to raise premiums less than 1 percent. That being said, a strong argument could be made for riding out this wave of positive validation and waiting to ensure that the costs of any additional provisions are manageable. A strong visible endorsement of the Democratic leadership bill will no doubt change your positioning on this issue.

Final Quality Commission Meeting

Your Quality Commissions final meeting will likely focus on recommendations for developing, evaluating and achieving health care quality standards. (Although this work has not obtained the level of visibility that was achieved by the Commissions "Consumer Bill of Rights," some elite validators believe it will have the most long-lasting and positive impact on health care delivery.) In addition, the Commission may comment on the wide disparities in enforcement of basic consumer protections now in current law. While such an approach obviously gives no substantive recommendation, it does provide justification for action to address the issue of enforcement. However, it also highlights the fact that the However we do believe that we can create a strong event on Friday.

Recommendation

It is our recommendation that you publicly receive the Quality Commissions report. We believe that we can create a strong event. At this event, we would recommend you commend the Democratic Leadership on their bill and on their commitment to this issue. However, we would recommend that you not attend and send a strong endorsement of the bill in order to maintain your current positioning on this issue.

Could be expensive and lend credence to charge that the protections will increase costs and decrease health insurance coverage. Cost to Medicare and Medicaid -- IF WE WANT TO BE CONSISTENT. Could be undermined later on after CBO releases final analysis. Undermine are preliminary positive working relationships with the Republicans. Strong argument could be made for waiting to ensure costs are manageable and continue to ride positive outside validation. If we don't wait until later, the remedies provisions will attract a broad, strong, and extremely negative response from the business community. They will threaten to drop coverage because of their fears of litigation.

January 8, 1998

TO:Gene
FROM:Jeanne and Chris
RE:URGENT MEDICARE BUY-IN QUESTIONS, PLUS

I dont think that you and Chris connected yesterday; here are the issues:

1.Trust Fund and Part B Premium: We discussed this on Monday night, but one issue that has been raised is: if expenditures for the buy-in participants come from existing Medicare Trust Funds, they both decrease the life of the Trust Fund and count toward calculation of the Part B premium (and average managed care payment rates). Granted, our offsets to pay for these costs come from Medicare as well so that we are lowering Medicare outlays in the same proportion, so the overall net effect is a wash. However, the savers disproportionately come from Part B and the expenditures are disproportionately from Part A.

This is mostly a political question; on policy grounds it does not matter a lot. Reporters have been asking this question; Bill Thomas certainly has raised this issue. In addition, I got called from Marilyn Moon who said that she would be much more comfortable with the policy if expenditures were drawn from a separate account. The political reason why it may not be a good idea to set up a new trust fund is that its expenditures would show up in a distinct, visible line in the budget, possibly drawing more attention and criticism.

HHS and OMB are contemplating these issues now. On Monday night, we talked briefly about this issue and at that time you thought we should not make a big deal and keep it in the existing funds. Chris and I just wanted to double check and make sure that we fully explained this issue and that your opinion is the same. Do you have a strong opinion on whether we should create a separate Medicare Trust Fund for the buy-in participants?

2.COBRA premium: We did not publicly announce the premium for the broken promise people, but a bunch of numbers are floating out there. On policy grounds, we all think that 125% of the active workers premiums would be fine. Should we confirm this publicly?

3.Heads up: Childrens outreach event: Chris spoke with Elena Kagan yesterday who, like you, said that our window for rolling out budget policies is closing. She said that the only time that we may be able to do the kids outreach event is this Monday -- with a possibility of next Wednesday. Chris and I both feel that Monday is REALLY soon to do this well, but if it is the only opportunity, we will take it. However, Wednesday (or the following week) would be great. We are working today on set of options (e.g., bring in people from child care referral centers or schools who are now helping families find Medicaid to talk about how much more they could do / integrate health / child care /education). Just wanted to let you know.

MEMORANDUM FOR DISTRIBUTION

FROM: GREG SIMON

SUBJECT: QUINN-EXON LETTER RE: COMMUNICATIONS DECENCY ACT

We are receiving press inquiries about the attached letter from Jack Quinn in reply to a letter from Sen. Exon. After discussion with Elena Kagan at the White House Counsels office, I suggest the following responses to the expected questions:

Q: What was the purpose of Mr. Quinns letter, especially given the fact that some Administration officials have expressed concern about the Acts constitutionality?

A: * Mr. Quinns letter properly reflects the fact that the Justice Department is defending the Communications Decency Act in the current court case and that the President supports protecting children from computer pornography. Because the Act contained a provision for expedited review, the Justice Department announced it will not take action to enforce the Act prior to the Court completing its review.

Q: Why does the letter state that the President firmly supports the Communications Decency Act when the White House opposed the measure at every step of the legislative process?

A: *The White House did raise concerns during the consideration of the bill regarding the way in which the bill addressed the issue of on-line service providers liability for Internet communications and the definition of *indecent communications. However, the letter accurately states that the President, through the Justice Department, supports the Act as passed and will defend it in court.

November 18, 1997

MEMORANDUM FOR JOHN PODESTA

CC: SARA LATHAM

FROM: PETER RUNDLET

SUBJECT: The R&D Meeting

After making some calls to determine who should be invited to your senior-level R&D meeting this week, a couple wrinkles emerged. Apparently, Jack Gibbons sent a memo to the President about this issue, and Jill Blickstein at OMB, and Gene Sperling have some concerns about it. Tom Kalil thought that you should give Gene a call about this. Jill Blickstein, who works for Frank Raines, tried to convince me that a meeting was unnecessary and that OMB was placing special emphasis on Research. She said that she was going to urge Frank to call you. If we have the meeting, she said that Frank and Jack should be invited. I left a message for Josh Gotbaum (5-9188), but have not heard back from him.

Besides these questions, it wasn't clear to me whether you wanted agencies involved or not, and so I am providing a checklist of White House and agency folks.

Jack Gibbons, OSTP

Jeff Smith, OSTP

Gene Sperling, NEC

Tom Kalil, NEC

Frank Raines, OMB

Jack Lew, OMB

Josh Gotbaum, OMB

Ron Klain, OVP

Don Gips, OVP

Jim Kohlenberger, OVP (Don said he's been working the R&D issues)

Katie McGinty, CEQ (they have been working Climate Change)

Randy Beers, NSC (working R&D for Information Security, PCCIR)

Elena Kagan, DPC (if you want someone from DPC)

Dan Golden, NASA

Harold Varmus, NIH

Donna Shalala, HHS

John Hamre, DoD

Federico Pena, DOE

Bill Daley, Commerce

March 11, 1999

TAPED RADIO ADDRESS

DATE: March 12, 1999
LOCATION: Oval Office
TIME: 9:00 AM
FROM: Megan Moloney

I. PURPOSE

You will discuss the constructive steps the Administration has taken and will take to root out police misconduct and strengthen the bond between police officers and the communities they serve.

II. BACKGROUND

With this radio address you will bring together a group of civil rights advocates, police chiefs and rank-and-file law enforcement organizations to ask these leaders to work with you to make sure that the criminal justice system serves the needs of all Americans, and to make the system both fairer and more effective.

You will also discuss new provisions to be included in your 21st Century Crime Bill that will help accomplish this, such as more and better police training, more education for police, improved efforts to recruit minorities, and a long-term commitment to strengthen community policing efforts across the country.

Finally, you will direct the Attorney General to convene a series of meetings of representatives of the interested groups to examine ways of addressing the problem and recommend further actions that the Administration can take.

III. PARTICIPANTS

Briefing Dining Room 8:45 - 9:00 AM
The President
Ann Lewis
Loretta Ucelli
Bruce Reed
Elena Kagan
Charles Ruff
Minyon Moore

Ben Johnson
Jose Cerda
Jordan Tamagni

Taping Oval Office 9:00 - 9:25 AM

The President

Megan Moloney

Mary Morrison

White House Communications Agency (WHCA) staff

White House Television

White House Photographer

Approx. 15 guests (see attached for list)

IV. PRESS PLAN

The ABC, AP, C-SPAN, CBS/NBC/ Mutual/Westwood One, NPR, UPI, USA, American Urban Radio Network, Standard News and Armed Forces Radio networks will carry the address in its entirety broadcasting to their collective thousands of stations worldwide on Saturday at 10:06 AM ET.

NOTE: The address this week will also be carried by KFTS-AM (940) in Texarkana, since that is where you will be during the broadcast.

V. SEQUENCE OF EVENTS

Briefing

Radio Address

Greet guests

VI. REMARKS

To be provided by the Office of Speechwriting

July 2, 1997

TAPED WEEKLY RADIO ADDRESS

DATE: July 3, 1997
LOCATION: Roosevelt Room
TIME: 1:15 pm
FROM: Megan Moloney

I. PURPOSE

As we approach the one year anniversary of the welfare reform law, you will announce dramatic new reductions in our nation's welfare rolls. You will discuss what the Administration is doing to build on our progress, and what we need to do to meet our goal of moving one million more people from welfare to work by the year 2000.

II. BACKGROUND

You have called for welfare reform that reinforces basic American values -- work, responsibility, and family -- not punishes children for their parents' mistakes. Families throughout the country have moved from welfare to work due to welfare waivers, which authorized 38 states to bypass existing welfare rules and set time limits on benefits, require recipients to work or stay in school, provide child care and give employers incentives to hire welfare recipients. The year-old welfare reform law and current proposals in the balanced budget agreement make moving people from welfare to work a priority, and you have challenged the nations mayors, business executives and others to assist the federal government in doing so.

III. PARTICIPANTS

Briefing:
The President
Ann Lewis

Elena Kagan
Cynthia Rice
Jordan Tamagni

Radio Address:

The President

Megan Moloney

White House Communications Agency (WHCA) staff

White House Television(WHTV)

White House photographer

(see attached for special guest list)

IV. PRESS PLAN

The ABC, CNN, AP, C-SPAN, CBS, NBC, Mutual, UPI, USA,

American Urban Radio Network, and Standard News radio networks will carry the address in its entirety to their thousands of stations across the country this Saturday at 10:06 AM ET.

V. SEQUENCE OF EVENTS

Briefing

Tape Radio Address

Greet Guests

VI. REMARKS

To be forwarded by the Office of Speechwriting.

Rabbinic Social Action Seminar
Indian Treaty Room/OEOB
12:05p.m. --- 12:25p.m./Wednesday, January 14, 1998

Meeting requested by Monica Dixon & Ellen Ochs
Briefing prepared by Deborah Mohile

EVENT

You are meeting with Reform, Reconstructionist & Conservative Rabbis from across the country regarding issues of common concern.

LOGISTICS

*You will enter Room 476 and be briefed by Deborah Mohile, OPL Jewish Liaison; Chris Bolan, NSA, and Ellen Ochs.

*Rabbi David Saperstein and his 8-year-old son, Daniel, will join you in the briefing room for photo and welcome.

*You will enter the Indian Treaty Room with Rabbi Saperstein. Rabbi Saperstein will introduce you.

*YOU WILL DELIVER BRIEF, VERY INFORMAL REMARKS for 5 to 7 minutes. Speechwriting will provide very brief talking points.

*You will take questions from the audience for 10 minutes.

PROGRAM NOTES

*This group will meet with Dennis Ross, immediately following your appearance.

*During their 4-day meeting in D.C., they will already have met with Jack Lew (OMB); Elena Kagan (DPC); Bill Marshall (Counsel) and Eric Schwartz (NSC-Human Rights).

*This group will be coming from a session about the environment before meeting with you. They will have heard from the League of Conservation Voters and two religious environmental coalitions. You are speaking at the last session of the four day seminar.

BACKGROUND

This ad hoc group of non-Orthodox rabbis from across the country have come to Washington for a four day seminar on social action advocacy training. Although sponsored and run by the Union of American Hebrew Congregations (Reform) Religious Action Center, the rabbis come from all three non-Orthodox movements: Reform, Reconstructionist and Conservative.

Rabbi David Saperstein is the Director of the UAHC Religious Action Center and is the unofficial dean of the Washington Jewish lobbyists. Attached is a recent letter David wrote you praising your decision to go to the Kyoto conference.

ATTACHMENTS

- *List of Attendees
- *Bio of Rabbi Saperstein
- *Letter from Rabbi Saperstein
- *Brief talking points

August 19, 1997

NOTE TO:Elena Kagan, Jose Cerda

FROM:Cynthia Rice

SUBJECT:Data Sources for the Race Initiative

Attached are some data sources that may be helpful for the race initiative. In addition, these individuals are good resources of information on families and social programs:

HHS: Patricia Ruggles, Deputy Assistant Secretary for Human Services Policy, Office of the Assistant Secretary for Planning and Evaluation, 690-7409.

Labor Dept.:Ed Montgomery, Chief Economist, 219-5109 ext 156.

Census Bureau: Daniel Weinberg, Chief, Housing and Household Economics Statistics Div., 301/457-8550;

Don Hernandez, Chief, Marriage and Family Statistics Div. 301/457-2465.

National Center for Stephanie Ventura, Research Statistician, 301/436-8954 ext. 131.
Health Statistics:(Stephanie is a specialist in teen pregnancy and birth data.)

March 19, 1999

MEMORANDUM FOR DISTRIBUTION

FROM: PHIL CAPLAN

SUBJECT: Race Book - Draft

Attached is a draft of the race book. I'm circulating it for your review and comment; it's important that you read it carefully and thoroughly. The President is reading it at the same time.

John and Maria have tasked Todd Stern to edit the book in its final stages. Please feed him all edits/comments so that the project may be completed in a timely fashion.

Comments are due to him by March 26.

☐☐

March 26, 1999

MEMORANDUM FOR DISTRIBUTION

FROM: Phil Caplan

Attached for your review is one of the missing sections of the race book -- Part III: The Opportunity We Deserve.

Edits/comments to Todd Stern by COB March 30.

☐☐ Distribution List (wont go out with note):

The First Lady
The Vice President
Melanne Verveer (Shirley Sagawa)
John Podesta
Ron Klain
Maria Echaveste (already has one)
Todd Stern
Bruce Reed
Elena Kagan
Gene Sperling
Chuck Ruff (Eddie Correia)
Minyon Moore
Michael Waldman
Sylvia Mathews
Ben Johnson
Sid Blumenthal

Josh Gotbaum

*

October 27, 1997

Health Division
Office of Management and Budget
Executive Office of the President
Washington, D.C. 20503

Please route to: ACTION REQUESTED:TIME SENSITIVITY:

Richard Turman
Barry Clendenin

Josh Gotbaum Decision or Approval Urgent

 Please sign ASAP

 Per your requestAction Requested by

 Please comment Not Time-Sensitive

 X For your information With informational copies for: HPS Chron, Murray, Miller,
Blum, HPS staff, HD Chron

Subject:DPC Meeting w/HHS on Racial Health Disparities -- Potential Add-on for FY99 Budget

From: Greg WhitePhone:202/395-7791

Fax:202/395-3910

Room:NEOB #7002

HPS and HFB staff attended a meeting on 10/17 with Chris Jennings and Elena Kagan of DPC and Bill Corr, John Callahan and other HHS policy officials regarding a potential Presidential initiative on reducing racial disparities in health status (e.g. infant mortality). DPC and HHS have apparently had several meetings on this subject over the last few weeks. OMB staff were invited to attend this meeting since it was designed to discuss "budget issues" regarding this initiative.

DPC and HHS discussed the possibility of having the President announce certain FY 1998 and FY 1999 funding initiatives in this area on November 11th, 1997 at a meeting of the American Public Health Association (APHA). HHS was uncertain they could prepare all of the press materials for an announcement on this date, but was going to get back with DPC during the week of 10/20 to let them know when they could be ready. Both DPC and HHS noted that any resource commitments made for FY 1999 would have to be cleared by OMB.

BACKGROUND

In earlier meetings, DPC asked HHS for their input on how to develop a Presidential initiative in this area. HHS has since identified six health areas where there are notable racial differences (See Tab A for prior correspondence between DPC and HHS on this subject.)

(1) Infant Mortality(4) Diabetes

- (2) Breast and Cervical Cancer(5) AIDS
- (3) Heart Disease and Stroke(6) Immunizations

HHS staff noted that the current HHS "Healthy People 2000" goals seek "to close the gap" to varying degrees in these six general health areas by the year 2000, but do not seek to eliminate the full racial disparity. HHS noted that if the President were to propose a full scale initiative in this area, he may like to establish an Administration goal for the year 2010 to eliminate racial health disparities in these areas.

HOW HHS WOULD STRUCTURE A PRESIDENTIAL ANNOUNCEMENT

Melissa Skofield, HHS Assistant Secretary for Public Affairs, presented her thoughts on how the President could present a racial health initiative to the public. She outlined the following two-tier structure:

FY 1998 Initiatives -- The Administration would announce three projects in each of the six health areas highlighted above that HHS plans to do with FY 1998 funds. For example, it would highlight a \$25 million NIH project to increase minority participation in research clinical trials related to Type II diabetes and some coordinated HRSA grant activities to address infant mortality in the Mississippi Delta.

FY 1999 Initiative -- The Administration would also announce a new HHS program activity titled "Healthy Life" that would be very similar to HRSA's "Healthy Start" infant mortality program. Under this initiative, HHS would give grants to 30 communities across the nation to address one of the six health areas cited above. (In theory, five communities would address each of the six goals.) In the first year, each community would establish baseline data and set goals to eliminate racial disparities over a five year period. According to HHS, this project would require \$360 million (BA) over five years; \$30 million of which would be in FY 1999. This initiative was not included in HHS original FY 1999 submission in September. (See Tab B for description of this proposal.)

HHS HAS BEEN MEETING WITH MINORITY ORGANIZATIONS -- HHS Office of Civil Rights staff have been meeting with minority organizations to gauge their probable reaction to a Presidential initiative in this area. In general, HHS believes that minority groups would react positively to this type of initiative, but many groups noted that a better way to address racial health disparities is by increasing the number of minorities who have health insurance.

DPC NOTES WEST WING SUPPORT FOR INITIATIVE

Chris Jennings noted that Erskine Bowles has a keen interest in this possible initiative.

SUGGESTED FOLLOW-UP AND OTHER QUESTIONS

Following the meeting, John Callahan advised me privately that the documents in Tab B "do not represent an official HHS request for FY 1999." They were developed merely in response to queries by DPC. You may want to discuss this issue with him to get a sense where this proposal fits in with the other HHS proposals for FY 1999.

In addition, you are scheduled to meet with Chris Jennings on 10/21 to discuss DPCs priorities for the FY 1999 Budget. You may want to discuss this issue with him to get a sense of how they would like to proceed on this potential initiative.

We also understand that there is an upcoming FY 1999 Budget Crosscut on Civil Rights. Would you like the new HHS proposal to be addressed in this context?

Attachment

-- D R A F T --

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
ELENA KAGAN

SUBJECT: POLICY DEVELOPMENT FOR THE RACE INITIATIVE

This memorandum proposes a policy development process for the Race Initiative -- and recommends an initial policy announcement to be unveiled at the NAACPs annual meeting on July 17th. Although we would have preferred to develop this process with the assistance of the Race Commissions staff director, we believe that it is of critical importance to get started right away. Thus, we recommend that DPC immediately convene three workgroups in the key areas of economic empowerment, education and administration of justice, and that a fourth issue -- health -- be addressed through DPCs ongoing relationship with HHS.

Our goal for these workgroups is three-fold: (1) to provide a statistical "snapshot" of racial and ethnic minorities and, thus, an informed starting point for policy development; (2) to assess the impact of Administration initiatives on racial and ethnic minorities; and (3) based on our analysis, to recommend policy initiatives to announce throughout the upcoming year -- as well as longer-term policies to incorporate into the Race Commissions final report.

I. WORKGROUPS

A. Economic Empowerment

Managed jointly by DPC and NEC, this groups mission will be to look for ways to promote job growth and the culture of work among disadvantaged minorities. Increasing job opportunities for unemployed and underemployed blacks and Latinos, and assimilating them into the workplace, is the way to strike right at the economic root of racism in our society. Jobs give minorities what they want most -- a chance to participate in the mainstream economy -- and help dispel majority fears about racial and ethnic minorities who are at the margins of society. Other participants in the Economic Empowerment group will include: CEA, OVP, OMB, Treasury, Labor, HUD, HHS, Agriculture, Commerce, Interior, SBA and Transportation.

We have already met with the CEA to begin compiling the economic data for this task. Some analysis was conducted during the Administrations affirmative action review, but more needs to be done. We will also specifically examine a host of Administration initiatives -- including the Welfare jobs initiative, EITC, EZs, CDFIs, changes to CRA, the minimum wage

increase, One Stop Career Centers and Capital Shops, HUDs Bridges-to-Work, Home Ownership Zones , etc. -- and look at their impact on racial and ethnic minorities. We will try and build on existing economic efforts wherever possible.

With respect to longer-term policy development, the Economic Empowerment group will also look at other topics, such as: (1) strengthening job recruitment networks; (2) matching and transporting workers to where there us worker demand; (3) promoting mixed-income, multi-racial communities; (4) affordable housing strategies; (5) housing mobility; and (5) rural economic development.

B. Education

This group, which will be managed jointly by DPC and the Department of Education, will consist of two subgroups: one specifically to look into the dramatic drop in minority enrollment at the Universities of California and Texas; and one to promote improvements in elementary and secondary education. If addressing the "jobs gap" is the most visible and immediate way to begin addressing economic disparities and racial stereotypes, than increasing levels of education among disadvantaged minorities must be our primary long-term challenge.

The experience of Latinos in many parts of our country makes clear the importance of education to climbing the economic ladder. While Latinos in some cities have been able to overcome discrimination in hiring and develop successful job recruitment networks -- often leading to coveted industrial jobs -- their average income is either stagnant or declining. A recent study by the Woodstock Institute in Chicago found that while unemployment rates for Hispanic Empowerment Zone (EZ) residents were half that of their African American counterparts, their average income was considerably lower than that of employed African Americans.

The Minority Enrollment subgroup will consists of DPC, White House Counsel, Education and Justice, and has already started to meet and collect data. In addition to DPC and Education, the broader subgroup on elementary and secondary education will include NEC, CEA, OVP, OMB and HHS. This group will look at how performance standards, teacher training, technology and infrastructure improvements can help our poorer schools. Also, we are particularly interested in reviewing what Mayor Daley of Chicago and other mayors are doing to turn their school systems around, and how such comprehensive -- and race neutral -- changes can benefit all Americans.

C. Administration of Justice

This group will also be split into two subgroups, both led by DPC: the first will focus on crime control and prevention; and the second will target government-wide enforcement of our civil rights laws. Other members of these groups will include: OVP, OMB, Treasury, DOJ, Education, Labor, HUD, HHS, Agriculture, Interior and EOC.

The primary focus of the Crime group will be to examine the under protection of racial and ethnic minorities. Although minorities, particularly in our inner cities, are the most likely victims of crime, they have been historically under protected by local law enforcement. Even now, as crime has dipped to its lowest level in 35 years, initial data indicate that minority communities have not benefitted as much from this decline as other communities. This is especially true for Indian Country, where the homicide rate has jumped more than 80 percent since 1992.

We strongly believe that the Administrations community policing initiative is on the right track and helping to reverse the trend of under protection. It is helping thousands of communities put more police in neglected, high-crime areas -- as well as allowing police officers to work collaboratively with community residents to solve a broad spectrum of crime problems (youth violence, domestic abuse, hate crimes, etc.) With more than 40,000 new police officers to be hired, there is still much the Administrations community policing -- and other crime initiatives -- can do to address the considerable public safety needs of minority communities.

The Civil Rights Enforcement group will seek to develop a coordinated strategy and common mission for the many federal agencies involved in civil rights enforcement. In addition to reviewing how to reduce the considerable backlog of cases in some of these agencies, the Civil Rights group will tackle and troubleshoot some of the policy quandaries that arise when communities try to be innovative. For instance, the Fair Housing Act has prevented some EZs from targeting their housing monies to EZ. residents. Similarly, school districts that have tried to improve by implementing initiatives such as teacher testing have come into conflict with Title VII of the Civil Rights Act.

D. Health

Instead of establishing a new work group to review health issues, we intend to build on DPCs close working relationship with HHS and existing health initiatives.. HHS has already commenced an internal review to identify disparities in health needs and the provision of services. Also, we are reviewing the Administrations immunization initiative to see how it has impacted racial and ethnic minorities, and considering how we can ensure that the low-income childrens health initiative meets the significant needs of certain minorities.

II. INITIAL EDUCATION ANNOUNCEMENT

We are recommending that you announce a two-part education initiative when you speak to the NAACP on July 17th. This initiative, which will be included as part of the reauthorization of the Higher Education Act, focuses on improving teacher recruitment and preparation, with a particular focus on preparing teachers to teach in urban and poor rural school systems. The teacher preparation component of the program will provide funds to partnerships involving institutions of higher education with exemplary teacher preparation programs, other institutions of higher education seeking to strengthen their teacher preparation programs, and local school systems that will employ new teachers. These partnerships will work together to implement teacher preparation programs that effectively equip new teachers to teach in urban and rural environments.

The second component funds scholarships for individuals preparing to teach; scholarship recipients will be required to teach for at least three years in an under served community. Funds will be distributed on a competitive basis to partnerships of eligible local school systems and institutions of higher education. The partners together will define the priority local needs (e.g., teachers in particular disciplines, specialties or grade levels) and target populations (e.g., mid-career adults, paraprofessionals already in the classrooms, or more traditional teacher candidates), and will provide scholarships to individuals meeting these criteria.

By focusing on better training for teachers and improving our neglected schools, we believe that you will be in a strong position to urge the NAACP not to abandon it long history in

support of integration -- and to support the Administrations education initiatives.

POLICY DEVELOPMENT FOR THE RACE INITIATIVE

I. ECONOMIC OPPORTUNITY AND HOUSING

- LEAD: DPC (Jose Cerda)/NEC (Anne Lewis)

- OTHER PARTICIPANTS:

CEA, OVP, OMB, Treasury, Labor, HUD, Agriculture, Commerce, Interior, Transportation, and SBA.

- KEY STAFF TO CONSIDER:

Micheal Barr, Treasury; Michael Stegman, HUD.

- POLICY REVIEW/DEVELOPMENT:

Jobs and Housing. To what degree have racial and ethnic minorities benefitted from the current economic expansion -- and specifically from the Administrations economic policies? What improvements can or should be made to promote economic opportunity. Initial tasks include:

- Work with CEA on "dump" of economic indicators;
- Provide "snapshot" of opportunities for minorities today;
- Conduct review of key Administration initiatives -- EZs, CDFIs, EITC expansion, changes to CRA, One Stop Career Centers, Bridges-to-Work, minimum wage, Welfare-to-Work, etc;
- Draft outline of policy framework for Commission staff;
- Identify options for relevant short-term policy initiatives;
- Develop longer-term policy issues/initiatives for Report;
- Provide guidance to OMB at start of budget process.

II. EDUCATION

- LEAD: DPC (Elena Kagan)

- OTHER PARTICIPANTS:

NEC, CEA, OVP, OMB, WH COUNSEL, EDUCATION, and HHS.

- KEY STAFF TO CONSIDER:

Mike Cohen, DPC; Dawn Chirwa, WH Counsel; Leslie Thornton, Education.

-POLICY REVIEW/DEVELOPMENT:

Improving Educational Opportunities. What can be done -- by way of standards, physical improvements, technology, increased aid, reforming local school systems, etc. -- to enhance educational opportunities for racial and ethnic minorities? Start-up tasks include:

- Work with CEA/Education on "dump" of indicators;
- Provide "snapshot" of minorities and education today;
- Conduct review of key Administration initiatives -- School-to-work, Goals 2000, charter schools, testing, standards, etc.;
- Draft outline of policy framework for Commission staff;
- Identify options for relevant short-term policy initiatives;
- Develop longer-term policy issues/initiatives for Report;
- Provide guidance to OMB at start of budget process.

Minority Enrollment. Convene special subgroup to respond to drops in minority enrollment at CA and TX state universities.

III. HEALTH

- LEAD: DPC (Chris Jennings)

- OTHER PARTICIPANTS:

NEC, CEA, OVP, OMB, HHS, ONDCP, Interior, VA and EPA.

- KEY STAFF TO CONSIDER:

...

- POLICY REVIEW/DEVELOPMENT:

Improving the Health of Racial and Ethnic Minorities. What are the unmet -- or special -- health needs of racial and ethnic minorities?

- Work with CEA/HHS on "dump" of health indicators;
- Provide "snapshot" of health of minorities today;
- Conduct review of key Administration initiatives -- Child immunization initiative, health care initiative for low-income kids;
- Draft outline of policy framework for Commission staff;
- Identify options for relevant short-term policy initiatives;
- Develop longer-term policy issues/initiatives for Report;
- Provide guidance to OMB at start of budget process.

IV. ADMINISTRATION OF JUSTICE

- LEAD: DPC (Elena Kagan/Jose Cerda)/WHC (Dawn Chirwa)

- OTHER PARTICIPANTS:

OVP, OMB, PCPC, Treasury, DOJ, Education, Labor, HUD, HHS, Interior and EOC.

- KEY STAFF TO CONSIDER:

- POLICY REVIEW/DEVELOPMENT:

1. Crime Control and Prevention (Cerda). Analyze victimization rates for racial and ethnic minorities and law enforcement response. Also, review data on number of at-risk youth and what prevention strategies/programs are available.
2. Coordination of Civil Rights Enforcement (Kagan). Review enforcement of civil rights laws in all federal agencies; how these laws can clash with other policy goals; and develop long-term, coordinated, administration-wide strategy for civil rights enforcement.
3. Affirmative Action (Chirwa). Oversee and further develop Administrations effort to "mend" Affirmative Action. Review and make appropriate recommendations on state and local efforts, too.

FF

- have to include rural as well, racial isolation in public schools, civil rights enforcement (when NYC took over schools), teacher testing (title 7) and disparate impact, "ebonics", employers helping out on testing, standards and civil rights disincentives, charter schools to focus on college admissions, urban ed bill by Rangel -- ed tax credits? Any serious proposal must deal with school construction and repair? Fatah proposal on pell grants for kids in 75% poverty schools?

- by end of July, higher ed reauthorization -- teacher training, ??? . historically black colleges are included in higher ed.,

-- D R A F T --

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
ELENA KAGAN

SUBJECT: POLICY DEVELOPMENT FOR THE RACE INITIATIVE

This memorandum proposes a policy development process for the Race Initiative -- and recommends an initial policy announcement to be unveiled at the NAACPs annual meeting on July 17th. Although we would have preferred to develop this process with the assistance of the Race Commissions staff director, we believe that it is of critical importance to get started right away. Thus, we recommend that DPC immediately convene three workgroups in the key areas of economic empowerment, education and administration of justice. A fourth issue -- health -- can be addressed through DPCs ongoing relationship with HHS.

Our goal for these workgroups is three-fold: (1) to provide a statistical "snapshot" of racial and ethnic minorities and, thus, an informed starting point for policy development; (2) to assess the impact of Administration initiatives on racial and ethnic minorities; and (3) to recommend both short- and long-term policy initiatives to respond to the issues identified by our analysis.

I. WORKGROUPS

A. Economic Empowerment

Managed jointly by DPC (Jose Cerda) and NEC (Jonathan Kaplan), this group will take a broad look at the economic expansion, and to what extent racial and ethnic minorities have been able to benefit from it.

Other participants will include: CEA, OVP, OMB, Treasury, Labor, HUD, Agriculture, Commerce, Interior and Transportation.

II. EDUCATION

After independently reviewing the Sentencing Commissions revised report, and having met to discuss their findings, the Attorney General and ONDCP Director have come to different conclusions. In brief, here are their recommendations:

III. ADMINISTRATION OF JUSTICE

The Attorney General is recommending that the Administration support and work with Congress to reduce the disparity between the triggering amounts of crack and powder cocaine for five-year mandatory sentences from 5 grams of crack and 500 grams of powder, to 25 grams of crack and 250 grams of powder cocaine.

The Attorney General believes that this revised structure will help ensure that federal prosecutors target mid- and high-level cocaine traffickers, generally leaving lower-level traffickers and users to be prosecuted by state and local law enforcement. She contends that this "division of responsibility" for prosecuting drug cases is sensible: the federal government is better situated to target and dismantle major drug trafficking organizations through its powerful enforcement tools, such as the RICO statute, wiretapping authority and its national and international enforcement programs.

She also argues that the current sentencing structure creates an incentive to concentrate on lower level street dealers since sales of 5 grams of crack can still result in a long mandatory sentence. A mid-level crack dealer, however, typically deals in ounce (28 grams) or multi-ounce quantities. By directing resources toward lower-level dealers, otherwise scarce federal law enforcement resource are diverted away from higher priority, serious drug traffickers.

Finally, the Attorney General makes the case that the current 100:1 sentencing scheme has become a symbol of racial bias in the criminal justice system for many African Americans. Thus, reducing the disparity from 100:1 to 10:1 is not only good law enforcement, it will also help address this concern.

IV. HEALTH

The ONDCP Director is recommending that the Administration support and work with Congress to repeal the disparity in sentencing for crack and powder cocaine, and establish a 100-gram threshold for triggering 5-year mandatory drug penalties for cocaine violations.

The ONDCP Director strongly believes that the different sentencing guidelines for crack and powder cocaine are flawed and serve no useful. The only real difference between these two forms of cocaine, he argues, is the systematic violence associated with drug sales at crack markets, and this issue can be addressed through existing enhancements for weapons offenses provided for in the sentencing guidelines.

Additionally, the ONDCP Director points out that crack use has stabilized, and that federal cocaine policy should focus limited law enforcement resources on international dealers and domestic wholesalers -- or those who deal in quantities of a kilogram or more. Thus, by setting the threshold for 5-year mandatory drug penalties at 100 grams, the federal government can dedicate more resources for serious drug dealers, target mid-level dealers (those who deal in multiple ounce quantities) as informants and save on incarceration costs.

Finally, the ONDCP director also makes the argument that the current crack cocaine sentences have had a disproportionate impact on African Americans, and have served to undermine public support for the criminal justice system.

III. RECOMMENDATION

We recommend that you endorse the recommendation submitted by the Attorney General and issue a statement encouraging her and the ONDCP Director to work with Congress to address this matter. We believe that the proposed 10:1 ratio, which triggers 5-year mandatory drug penalties at 25 grams of crack cocaine and 250 grams of powder cocaine, is the best alternative. In addition to significantly reducing the disparity between crack and powder

cocaine sentences -- while preserving the Congressionally mandated policy of tougher penalties for crack -- this recommendation makes the most sense from a law enforcement perspective. It links the increase in threshold for mandatory crack penalties (25 grams) to an amount that corresponds with the practice of mid-level crack dealers to traffick in ounce (28 grams) or multi-ounce quantities.

We have several major concerns with the ONDCP Directors recommendation and, thus, strongly advise you to reject it. First and foremost, the ONDCP recommendation is contrary to the crack sentencing legislation that you proposed and Congress passed -- and which expressly endorsed tougher penalties for crack cocaine because of the violence associated with its use and sale. Second, ONDCPs recommended threshold of 100-grams for crack and powder cocaine does not even correspond with the overall ranges recommended by the Sentencing Commission (25 to 75 grams for crack, and 125 to 375 grams for powder). And third, despite ONDCPs law enforcement rationale for the change, we expect that such a dramatic reduction in crack penalties will not be supported, and more likely opposed, by the law enforcement community.

Finally, despite concurring with the Attorney Generals recommendation, we are not optimistic that she and the ONDCP Director will have much success in persuading Members of Congress to pass such legislation any time soon. In fact, it is very likely that the Administrations call for legislation to reduce the disparity between crack and powder cocaine penalties will lead to congressional action to simply increase the penalties for powder cocaine violations. We believe this is especially true if the Administration proposes repealing the disparity between crack and powder cocaine sentences, as recommended by ONDCP. As it stands, Senators Abraham and Hatch have already proposed legislation to drop the threshold for mandatory drug penalties for powder cocaine violations from 500 grams to 100 grams, and are considering offering it as an amendment to the juvenile crime bill. Reversing our position on tougher penalties for crack is sure to elicit the same response as the original Sentencing Commission recommendation to equalize the threshold for crack and powder cocaine sentences at 500 grams -- more likely to result in Congress passing legislation that equalizes the threshold for crack and powder cocaine sentences at 5 grams. As you know, addressing the disparity in this manner will not only increase the federal governments role in low-level drug cases that are best addressed by state and local law enforcement -- it will add billions of dollars to the federal prison budget.

December 16, 1997

MEMORANDUM FOR SYLVIA MATHEWS

FROM: Bruce Reed
Elena Kagan

SUBJECT: Timing of Race Initiative Policy Ideas

Below is a suggested timetable to announce the policy ideas the DPC and NEC have developed for the race initiative.

January

Hispanic Education Action Plan -- This initiative will increase funding for a number of existing programs to improve education for Hispanic Americans and other limited English proficient (LEP) children and adults. It would double our investment in training teachers to address the needs of LEP children; boost the Migrant Education Program by 16 percent; increase the TRIO college preparation program by 10 percent; and create a 5-year, \$100 million effort to disseminate best practices in ESL training for adults. We would accompany these program increases with administrative actions to help Hispanic students complete high school and succeed in college.

College-School Partnerships -- This initiative, which builds on Eugene Lang's model of helping disadvantaged youth, will provide funding for college-school partnerships designed to provide mentoring, tutoring, and other support services to students in high-poverty schools, starting in the sixth grade and continuing through high school. The six-year funding path will provide help to nearly 2 million students. The proposal also will include Chaka Fattah's idea of early notification to disadvantaged 6th graders telling them of their Pell Grant and loan eligibility.

Notes: We should do the Hispanic Action Plan in Texas. Announcing the College-School Partnerships Program the same week (even the day before or after) could strengthen both events, given their mutually reinforcing messages.

We also will have our Martin Luther King Day event this month. As I think you know, we strongly support a service event -- not a Town Hall.

February

Education Opportunity Zones -- This initiative will provide funding to about 25 high-poverty urban and rural school districts for agreeing to adopt a "Chicago-type" school reform agenda that includes ending social promotions, removing bad teachers, reconstituting failing schools, and adopting district-wide choice.

Employment Discrimination Enforcement -- This initiative will fund reforms to the EEOC, allowing it to expand its mediation program (so that more than 70 percent of all complainants to choose mediation by the year 2000), increase the average speed of resolving

complaints (from over nine months to six) and reduce the EEOCs current backlog (from 64,000 cases to 28,000). We can also announce reforms to other civil rights offices in the federal government, although these are far less dramatic.

Note: These are two good announcements for right after the State of the Union and the budget. (Of course, weve already told the press about the concept of EOZs, but havent provided any details.) We should push EOZs early in the legislative session, and its important to announce fairly soon an initiative focusing on civil rights enforcement.

March

Housing Opportunity -- This announcement can combine a number of initiatives in the budget, none of which will get much play alone: proposals to expand homeownership, improve housing portability, increase vouchers, and attack housing discrimination. (The fair housing proposal can go either here or with the EEOC announcement; we think it fits best with a package of housing opportunity proposals.)

Community Empowerment Fund -- This initiative establishes a public/private fund ("Eddie Mac"), which will invest in inner-city businesses and create a secondary market for economic development loans (like Fannie Mae).

Note: By this point, well have presented most of our education initiatives; housing and economic opportunity seem the natural next issues. We also must announce the housing package (at least if it includes the fair housing proposal) before or during April, which is the thirtieth anniversary of the Fair Housing Act.

April

Assisting the Unbanked -- The electronic funds transfer regulation, due in April, will bring as many as 10 million people into the banking system.

Racial Disparities in Health Care -- This initiative will address racial disparities in six areas of health care: infant mortality, breast and cervical cancer, heart disease and stroke, diabetes, AIDS, and immunization. The proposal includes additional funding (\$50 million) to established public health programs to adapt and apply their prevention and education strategies to eliminate racial disparities. It also includes funding (\$30 million) for up to thirty local pilot projects to test innovative approaches to reach this goal.

May

Community Prosecutors -- This initiative will provide grants to prosecutors for innovative, community-based prosecution efforts, such as Eric Holder adopted in the District of Columbia. A full 80 percent of the grants will go to pay the salaries and training costs associated with hiring or reassigning prosecutors to work directly with community residents.

June

Indian Country Law Enforcement and Education -- The current budget includes substantial additional funds for law enforcement activities and school construction in Indian Country.

August 8, 1997

JOINT LIVE WEEKLY RADIO ADDRESS WITH THE VICE PRESIDENT

DATE:August 9, 1997
LOCATION:Oval Office
TIME:10:06 AM EDT
FROM:Brenda Anders

I. PURPOSE

To announce, along with the Vice President, an executive order banning smoking on U.S. government property.

II. BACKGROUND

This is the broadest smoking ban on federal property ever. Until now, government agencies have had discretion in restricting smoking in their facilities.

III. PARTICIPANTS

Pre-Brief:

Rahm Emanuel
Elena Kagan
Elizabeth Drye
Jordan Tamangi

Radio Address:

The President
The Vice President
Brenda Anders

(see attached for special guest list)

IV. PRESS PLAN

The ABC, CNN, AP, C-SPAN, CBS, NBC, Mutual, UPI, USA, American Urban Radio Network, and Standard News radio networks will carry the address live to their collective thousands of stations across the country at 10:06 AM EDT.

V. SEQUENCE OF EVENTS

Briefing.

Live broadcast of radio address with the Vice President.
Greet guests.

VI. REMARKS

To be provided by the Office of Speechwriting.

STATISTICAL POLICY

[Revised] Statistical Confidentiality and Data Sharing

The Statistical Confidentiality Act, which was transmitted by the Administration to the Congress at the end of April 1996, was introduced on a bipartisan basis (Steve Horn and Carolyn Maloney) in the House of Representatives (H.R. 3924) on July 31 and was subsequently referred to the Committee on Government Reform and Oversight. Discussions were initiated with staff of Senators Glenn, Cohen and Thompson with the objective of gaining a bipartisan introduction of the bill in the Senate. The Statistical Confidentiality Act would provide uniform protection of data across eight principal statistical agencies and permit them to manage and exchange information for statistical purposes more efficiently and effectively. While the congressional calendar did not permit culmination of efforts to pass this bill, we believe interest remains strong and are prepared to transmit the legislation to the new Congress at the earliest appropriate date. We are preparing a briefing note for Senator Bingaman who has expressed interest in the bill recently.

The companion administrative Order on Confidentiality was published on January 29, 1996, in the Federal Register for a 60 day public comment period. We received comments and questions from all the affected statistical agencies as well as some highly favorable comments from the public, including a unanimous endorsement from the Board of the Council of American Survey Research Organizations (CASRO). We also participated in many informal discussions of issues and responded to individual inquiries. We anticipated some minor changes in language of the order to ensure consistency with revisions in the proposed Statistical Confidentiality Act. However, a disclosure dispute between the Justice and Energy Departments raised some unanticipated issues concerning the Energy Information Administration that delayed final revisions. Drafts of the final order have been coordinated with affected parties and revised language to resolve all issues is being closely scrutinized by our OGC. Consultations and internal review of the final order will be completed in January.

We have just learned that Senator Moynihan has (re) introduced his "Commission to Study the Federal Statistical System" bill (S. 144) and will review it to determine (1) if it is the same bill introduced late last year and (2) implications of this bill in relation to our initiatives.

[No Change] Transfer of the Census of Agriculture

Following the budget decision to transfer the Census of Agriculture from the Census Bureau (CB) to the National Agricultural Statistics Service (NASS), Statistical Policy took the lead in coordinating actions among the many interested parties in OMB. On June 17 the bill to authorize the transfer was introduced (H.R. 3665) with 17 cosponsors. The legislation passed the House but stalled in the Senate because of a proposed amendment by Senator Brown (R-CO). Meanwhile, funding to effect the transfer was included in the FY 97 Agriculture appropriation. We have met with representatives of the Census Bureau, NASS, and IRS/Treasury to develop plans for meeting the information security and confidentiality requirements of all current statutes during the various stages of the transition period (through 1998). Current plans assume that the Administration's Statistical Confidentiality Bill (which provides a long-term solution for these problems) will be passed by Congress

during this period. Initial analysis by IRS indicates that the problems are manageable in the short term, but will become critical if proposed amendments to the Tax Code are not in place in 1998. In December, Census and NASS developed a draft plan for operations using tax data and submitted copies to IRS and OMB. We have reviewed the plan and provided feedback to the agencies.

[Revised] 2000 Census Planning

Members of Congress continue to express concern about the use of sampling for nonresponse follow up. On May 30, Representative Carrie Meek introduced legislation [H.R. 3558] that would permit the Census Bureau to "use sampling as a substitute for direct contact in a particular census tract only after direct contact has been made with at least 90 percent of the households in such a tract." Early in June, Representative Tom Petri introduced legislation [H.R. 3589] that would prohibit the use of "sampling or any other statistical procedure...in determining the total population by States...for purposes of the apportionment of Representatives in Congress..." On September 18, the House Committee on Government Reform and Oversight approved by a 22 to 12 vote a nonbinding report that recommends that the Census Bureau not use sampling to complete or adjust the 2000 decennial census.

Concerns about funding the 2000 census have stemmed not only from increasingly stringent spending limitations but also from House CJS Appropriations Subcommittee Chairman Rogers' repeated complaints about having his subcommittee bear the full cost of the 2000 census. Despite the House and Senate budget resolutions that endorsed the single payer approach that we favor, the report language accompanying the House subcommittee markup for the FY 1997 Census Bureau budget states that "the Committee expects the Bureau, working with the Office of Management and Budget, to submit a plan, not later than September 1, 1996, to include the following: 1) allocation of the costs of long form among the Federal users of this data; 2) number of questions proposed for elimination and the necessary statutory changes required." Although we worked to coordinate a single response to Chairman Rogers from the OMB Director, a separate response was sent to Mr. Rogers from the Census Bureau without being cleared by OMB, thereby precluding the planned single response. We continue to work with our RMO colleagues to determine appropriate next steps.

On December 6 we met with Census staff to coordinate the submission due to Congress on April 1 that will contain the content of the Census questionnaires. Census has produced a notebook with one page (two sides) for each question describing each data element, its statutory requirements, and how it is used by Federal and non-Federal users. The Census Bureau Director and OMB's Chief Statistician co-chaired a January 23 meeting of senior officials from the agencies across government that use decennial census data to discuss the need for their support in justifying their data requirements and to engage their cooperation in working with OMB, the Census Bureau, and congressional committees. A memorandum will be sent to the Secretarial officers in these agencies asking them to provide auxiliary information concerning what they would do if the data were not available from the 2000 Census. The senior officials who attended the meeting will facilitate the collection of the information and advise their Secretarial officers of the need for their involvement.

We also learned this week (from Wendy Zenker) that GAO plans to include the Census 2000 as a new "high risk" area. GAO will be issuing an overall status report on high risk areas the week of February 10th (probable testimony on February 12). We have indicated an interest in a briefing GAO has offered to give us on this matter.

[Revised] Welfare Reform

Joan Turek of HHS has initiated an informal interagency working group on changes required in national level surveys in response to changes in welfare and health care programs. OIRA colleagues and several RMO staff members are participating in this working group, which met 3 times before the holidays and is scheduled to meet weekly in January and February. There has been some discussion about the need for OMB (SP) to lead an interagency group on this topic because needed changes are likely to be more extensive than the addition of a few questions to existing surveys.

A two day Conference on National Statistics on Health and Social Welfare Programs was hosted by the Committee on National Statistics on December 12-13. Several OIRA and RMO colleagues participated. The focus of the conference was information needed under welfare reform, implications for data collectors, and statistical and research issues. At the end of the conference, OMB's Chief Statistician agreed to provide leadership for an interagency committee to address the issues which were raised.

We are in the process of forming a two-tiered committee consisting of representatives of both data supplying and data using agencies. The higher level Oversight Committee will develop charters for Technical Coordinating Committees (TCC), make appointments to those committees, and review and adopt resulting recommendations. One of the TCCs will focus on Questionnaire Changes. This group will continue the work of Joan Turek's informal group to identify the changes needed to the questionnaires of current surveys (SIPP, CPS, and HIS). Another TCC may coordinate the work of the Federal agencies with the States, a third may take a long term view and consider how Federal surveys should be redesigned to achieve desired results most efficiently. We are currently developing a specific proposal for the interagency committee.

[Revised] OMB's Racial and Ethnic Categories.

The results of two major 1996 decennial census tests are being used to study the effects of suggested changes to OMB's Directive No. 15 on the quality and usefulness of data the Federal agencies collect on race and ethnicity. On December 5th, the Bureau of the Census released the findings from the March 1996 National Content Survey (NCS), a mail-out/mail back survey to a nationally representative sample of 90,000 households. Four panels in the NCS tested adding a multiracial category to the race question, placing the Hispanic origin question immediately before the race question, and a combination of these two changes. The key findings from the NCS are: (1) about one percent of persons reported as multiracial; (2) the multiracial category had no statistically significant effect on the proportions of persons reporting as Whites, Blacks, American Indians, or Asian and Pacific Islanders; (3) an apparent decline in the proportion of persons reporting as Asian and Pacific Islanders occurred in the panels with a multiracial category; (4) placing the Hispanic origin question before the race question significantly reduced the nonresponse to the Hispanic origin question; (5) placing the Hispanic origin question before a race question that did not include a multiracial option reduced reporting in the "other race" category and increased reporting of Hispanics in the White category.

The 1996 Race and Ethnic Targeted Test (RAETT), the second national test this year, is the primary test of alternative questions on race and Hispanic origin questions. The RAETT was mailed in June 1996 to 114,000 households in urban and rural areas of the country with different concentrations of racial and ethnic populations. The sample is expected to

represent Whites, Blacks, American Indians, Alaska Natives, Asians, Pacific Islanders, Hispanics, and persons who identify with more than one race. The seven experimental panels in RAETT provide tests of : a multiracial category; check-more-than-one approaches to reporting as multiracial; alternative sequencing of the race and Hispanic origin questions; combined race, Hispanic origin, and ancestry questions; a combined category for American Indians and Alaska Natives with a write-in line for tribe; a Native Hawaiian category; and several alternative terminologies and formats. The RAETT results are expected to be available in late April or early May 1997.

The RAETT results will be incorporated into the final report of the Research Working Group of OMBs Interagency Committee for Review of Racial and Ethnic Standards. Under the current schedule, the final report of the Working Group is expected to be available for review by the full Interagency Committee in mid-May 1997. We plan to publish the report and the Interagency Committees recommendations to OMB on Directive 15 for public comment in a mid-June Federal Register notice for public comment. OMB must announce its decision on the recommendations by no later than September 15, 1997, so that changes, if any, in the racial and ethnic data categories can be incorporated into the 2000 Census Dress Rehearsal questionnaire forms.

[Revised] Statistical Crosscut

At the statistical crosscut held November 22, 1996, the Director approved the recommended option to provide \$58.25 million in FY 1998 add backs to improve the Federal statistical system. These add backs will support initiatives to address fundamental shortcomings in economic statistics (\$3.1 million), to modernize our most basic industrial classification (\$5 million), to institute a program that will provide far more timely and flexible demographic information (\$19 million), to improve the CPI (\$2.1 million), to provide statistical expertise for GPRA measurement problems (\$3.55 million), and to preserve BLS programs to be cut at the decision level (\$25.5 million).

At the Interagency Council on Statistical Policy meeting on December 11, the OIRA Administrator delivered the Directors message that the agencies of the Federal statistical system need to work toward development of a "virtual" statistical agency with the goal of restoring the U.S. statistical system to "world-class" status. On the whole the message was well received. A subcommittee of six agency heads has begun meeting with the Chief Statistician to identify areas that would benefit from greater interagency exchange and planning and to develop next steps to carry out coordinated efforts. At our first meeting, we identified three general areas for extending collaboration: what we collect (gaps, overlaps, etc.); statistical methods research; and technological innovation. We are currently reviewing agency strategic plans and developing an inventory of collaborative efforts underway. Our initial target is to identify a first set of initiatives by the spring of 1997 for consideration in formulating the FY 1999 budget.

[Revised] Standard Industrial Classification Revision

Since March 31, 1993, the Office of Management and Budget has published six Federal Register notices under Title 44 U.S.C. 3504 seeking public comment on various aspects of the development of the North American Industry Classification System (NAICS) --the new international industry classification being proposed to replace the current domestic Standard Industrial Classification (SIC) that was issued in 1987. On November 5, 1996, OMB published the seventh notice in the series, seeking public comment on OMBs Economic Classification Policy Committees (ECPC) final recommendations to OMB for NAICS, including

its classification principles, hierarchy, industry structure, and coding scheme. These recommendations reflect public and Federal agency comments on the previous Federal Register notices and have been carefully coordinated with the statistical agencies of Canada and Mexico, the other codevelopers of NAICS. At an international ceremony in Ottawa on December 10, 1996, the heads of the three countries statistical services congratulated the NAICS development committees on completing their portions of the structural development process.

The closing date for comments was December 20, 1996. We received about 40 comments on NAICS ranging from wholehearted support (7) to opposition to the new system (3). Most (20) comments were about individual NAICS industries, with 2 letters (representing the views of 8 organizations) about insufficient codes for Office Furniture Manufacturing. Four comments express concern about the ECPCs proposed classification of auxiliaries. We are completing analysis of the public comments and are drafting the last notice in this revision cycle for the 1997 NAICS in consultation with the ECPC as well as Canada and Mexico.

We have received a draft text of portions of the new NAICS manual. The proposed format varies considerably from that of the current manual. We are undertaking a review of the advantages and disadvantages of this new format in consultation with the ECPC and users and are exploring various options for its publication. As part of the publication preparations, we have asked both the Government Printing Office and the National Technical Information Service to submit proposals for publication and dissemination of hard copy and electronic versions of the 1997 NAICS manual.

[Revised] One-Stop Shopping for Federal Statistics

The Task Force on One-Stop Shopping for Federal Statistics has made considerable progress in developing a prototype for a single point of access that will make our decentralized statistical system more transparent and easier for the public to use. Major statistical agencies have appointed a liaison for the one-stop site. The liaisons will suggest improvements and consider options to provide continuing content, technical, and financial support for the site. The one-stop shopping development site prototype may be visited at www.census.gov/fedstat/www/. We have obtained a new domain name so that when we publicly launch the site it will have its own address at www.fedstats.gov. The Task Force is now exploring available options to obtain the copyright to this domain name. The Task Force has developed several icons for the one-stop site and will ask the Interagency Council on Statistical Policy (ICSP) to select one as the official logo. Current plans call for the selected logo also to be copyrighted.

An interagency agreement to provide long-term support for the one-stop site was approved by the ICSP at its December 11 meeting and signed by the agency heads at the January 15 ICSP meeting.

[Revised] Boskin Commission Report on the CPI

The Senate Finance Committee's Advisory Commission To Study the Consumer Price Index, chaired by Stanford University economist Michael Boskin, said in its final report released December 4 that the Federal Government should devise a new inflation measure that is a "true cost-of-living" measure. The panel also concluded that the current CPI overstates inflation by 1.1 percentage points because of various "biases" related, in part, to difficulties in quickly updating the market basket of goods and services and to adjusting for quality improvements.

The Administration has indicated its intention to thoroughly study the implications of the report before taking any action. Congressional comments indicate a desire to capture the budgetary rewards of changing but not without the cover that would be provided by a clear call to implement some change from the President. BLS has been spending substantial time briefing various Members of Congress in recent weeks, and will be testifying before several congressional committees. We expect testimony will arrive for OMB clearance in the next few days.

[Revised] Data on Families and Children

The Interagency Forum on Child and Family Statistics which has participants from across government as well as from partners in research organizations, is fostering coordination, collaboration, and integration of collection and reporting of Federal data on child and family issues and conditions. The Forum already has made substantial progress on a proposed Indicators of Child Well-Being report targeted for publication in the spring of 1997. The report will provide about two dozen indicators on young peoples family characteristics, economic security, health and health care, behaviors, and education; monitor these indicators over time; and stimulate improvements in information collection.

The Forums efforts have proven most timely in relation to the Domestic Policy Council initiative "Partnerships for Stronger Families" that is working to make the Federal Government a more responsive and supportive partner in efforts to implement comprehensive community-based initiatives to serve children and families. This week we met with Elaine Kamarck, Elena Kagan and HHS officials to discuss next steps including a possible Executive Order or other means to institutionalize the annual production of the indicators report.

*TO:John Hilley
CC:Elena Kagan
FROM:Jennifer Klein
DATE:7/10/97
RE:Child Care and Child Welfare Proposals

As you consider uses for the tobacco tax funds, you had asked for descriptions of our child welfare and child care priorities.

1. Child Welfare

The Administration has stated its strong support for the House child welfare bill sponsored by Camp and Kennelly (H.R. 867). We would recommend supporting two additional provisions in the Senate bill sponsored by Chafee, Rockefeller, Jeffords and DeWine. The first proposal provides funds for services to resolve family problems that have caused the child to be placed in the foster care system as well as to develop alternative permanent arrangements for the child. The second provides grants to states to remove barriers to adoption. I have attached a more detailed description of these proposals.

2. Child Care

We are considering three child care proposals.

*The first would make the Dependent Care Tax Credit refundable for child care expenses so that it could be used by the lowest income working families and would increase the amount of credit available on a sliding scale to low and moderate income working families.

*The second would expand Healthy Start programs. This would link child care providers and health care providers to ensure that children are in safe, healthy and high quality environments. (We are waiting for more detail from HHS. Secretary Shalala prefers this option because she thinks the tobacco tax money should be used for initiatives closely tied to health care.)

*The third would provide funding for child care subsidies and create a quality incentive grant fund. It would: (1) increase child care development fund subsidies over the next five years to double the number of children served, reaching 2 million children by 2002; and (2) provide grants to states (with matching funds from the private sector) to improve the quality of child care for young children by modeling programs after the military system.

MEMORANDUM FOR ERSKINE BOWLES

FROM: Sally Katzen

SUBJECT: Heads-up on USDAs Final Rule on Regionalization

We are about to conclude review of a final USDA rule implementing part of the GATT agreement that will allow animal products to be imported from certain regions of countries that pose minimal risk of animal disease, despite the potential for higher risk of disease in other parts of that country.

Under current rules, export eligibility is determined on a national -- not regional -- basis. Countries with documented risks cannot export to the U.S. even from regions where there is no evidence of harm. With the new rules, countries applying to export animal products to the U.S. will be evaluated based on an assessment of the risk of transferring animal diseases from the particular region included.

Regrettably, the criteria for conducting the risk assessments are still being finalized, but USDA must issue the rule now to fulfill the Secretary's commitment to the European Union that final rules would be issued by October 1 of this year. Indeed, even before the rule was finalized, USDA issued individual rules allowing imports from specific regions (pork from Sonora, Mexico and beef from Argentina).

While the proposed rule (which took a very different approach) was heavily criticized by both our trading partners and the scientific community, this final rule is likely to be well received. The international community has been anxiously awaiting the rule and will welcome USDAs approach to allowing imports based on science.

Please let me know if you have any questions.

cc: Maria Echaveste
Rahm Emanuel
John Hilley
Ann Lewis
Thurgood Marshall, Jr.
Sylvia Mathews
Bruce Reed
Gene Sperling
Elena Kagan
Victoria Radd
Dan Turullo
Kathy Wallman
T.J. Glauthier
Larry Haas

MEMORANDUM FOR LEON PANETTA

FROM: Sally Katzen
Kitty Higgins
Katie McGinty

SUBJECT: Reg Reform Legislation

Toward the end of last year, we found ourselves in a position where it appeared likely that the Senate would not pass any reg reform legislation. The Administration articulated a "high bar" we would insist upon before we could sign a bill. The end result was that the session finished without any legislation. That was last year.

This year, the landscape has shifted somewhat, with forces on both sides of the aisle pushing towards some type of bill. Senate Democrats have continued drafting, meeting with each other (as well as outside groups, principally business), and redrafting. And the Republicans have again made reg reform one of their major agenda items for the year (see Lotts recent remarks to the Chamber of Commerce). In light of this activity, and the belief that there is a strong possibility that there will be a bill this year, we need to decide what our role should be. The main players on the Democratic side are Levin, who is working with Daschles blessing to craft a bipartisan bill that can get a large number of Democratic votes; Johnston, who is attempting to reestablish himself as the Democratic point man on the issue (and is in close contact with business); and Robb, who is speaking with both and has never abandoned his desire for a bill.

Weve had several meetings within the complex, and with the chiefs of staffs of the most affected agencies, to discuss the following questions:

*Should we be engaged in the discussions?

*If so, at what point, in what manner, and to what end?

Sally, who has the lead on substance, has an interagency group in place that provides input. Before we move along this path, however, we need a high level decision on these threshold questions. Given the agencies reaction to last years decision-making process, it is important to provide a meaningful opportunity for cabinet members or under-secretaries from the most affected agencies to provide their input before you or the President makes a final decision. There are real and strongly held differences of opinion on the threshold questions. Accordingly, we suggest that you have such a meeting, at which you should solicit their views of the political situation (and the strategies that flow from this) as well as what they think are the two or three most important substantive points for their agencies (for example, the petition process, decisional criteria, and judicial review have been our most important issues).

Recommendation:

We should have a meeting

We should not have a meeting

Lets discuss

CC:Alice Rivlin
Laura Tyson/Ellen Seidman
Pat Griffin/Tracey Thornton
Jack Quinn/Elena Kagan
Joe Steiglitz/Mike Toman
Jack Gibbons/Tim Newell
Ron Klain/Linda Lance
Mike Fitzpatrick
Wes Warren
Kris Balderston

MEMORANDUM FOR ERSKINE BOWLES

THROUGH:Franklin D. Raines

FROM:Sally Katzen

SUBJECT:Heads-up on OSHAs Final Rule on Respirators

We are about to conclude review of a final DOL/OSHA rule that updates current OSHA standards on the use of respirators (which are used on the job by about 5 million U.S. workers). The new standards require employers to (1) create a written respirator program and (2) take certain actions with respect to the safe and effective use of respirators, including the respirators selected, training provided, testing conducted, medical assessments to ensure appropriate use, and proper maintenance. While the rule is expected to impose annual costs on employers of \$111 million, including 10 million hours of paperwork burdens, OSHA estimates that the new standard will save between 200-2,200 lives and avoid 400-18,300 injuries and illnesses each year.

Reactions to the rule are expected to be generally favorable. Large employers should not object to the new standard and, in fact, should appreciate a number of simplifying changes made by the rule; labor unions and companies in the safety equipment industry will also be supportive. Criticism of the new standard is expected from small employers who do not already have a comprehensive respirator-use program and who object to the new burdens and costs imposed. To ease burdens on small businesses, OSHA has delayed the effective dates and is developing a small business compliance guide.

Please let me know if you have any questions.

cc: Maria Echaveste
Rahm Emanuel
John Hilley
Ann Lewis
Thurgood Marshall, Jr.
Sylvia Mathews
Bruce Reed
Gene Sperling
Elena Kagan
Victoria Radd
Barry Toiv
Michael Waldman
Josh Gotbaum
Larry Haas

Budget Rollout: Six Priority Areas

Education, Health Care, Child Care, Tobacco, Environment and IMF

In February and March, we plan to execute a coordinated rollout of six components of the Presidents FY99 budget: education; health care; child care; tobacco; environment, and IMF. A separate budget team, comprised of White House offices and agencies, will lead each of these efforts. These teams will meet weekly to plan press events, outreach, and other activities designed to gain support for Presidential initiatives.

Offices involved in this rollout include the NEC, DPC, OMB, Public Liaison, the Press Office, NSC, Intergovernmental Affairs, Cabinet Affairs, CEQ, Communications, Legislative Affairs, the First Ladys office, and others. Agencies include Education, Health and Human Services, Treasury, Labor, EPA, Interior, and USTR.

Schedule: February 10 White House meeting with team leaders

February 11-13 Separate meetings for each of six teams

Week of February 16 Meetings continue for six teams

Education

Bob Shireman/Michael Cohen

As a kickoff, the Vice President will likely be releasing a state-by-state analysis of the school modernization proposal on Wednesday, February 11, just as he and the President did last year. One of the principals could also celebrate the first sale/use of Rangel bonds.

*Campaign for Higher Education. The President or Vice President could conduct an event announcing that they are embarking on an 18-month campaign to tell Americans that "every American can go to college." Since student aid has been expanded so much, every American is now eligible for some help to go to college. There is \$15 million in the FY99 budget to undertake this informational campaign.

*Dropout Conference. The President could announce that the White House will host a formal Conference on Staying in School, following up on the Hispanic Education Action Plan, which was announced by the Vice President on February 2 and is a component our the Presidents budget.

*High Hopes. Following up on the major mentoring event of February 4, the President could announce a prominent foundation's large commitment to the program. (There is significant interest already).

*America Reads. To continue raising the profile of the America Reads initiative, the White House could conduct an event highlighting Read Across America, which will kick-off on Dr. Seuss's birthday on March 2; announce a summer campaign for reading; and celebrate the 1000th college to commit to dedicate work-study students to America Reads

Health Care

Chris Jennings

Several of the health components of the budget are already on the calendar, with a tobacco event on February 13, a childrens health event on February 17, a quality event on February 20 and a race and health event on February 23. Additional ideas include:

*Unveiling pre-65 legislation. Senator Moynihan is considering introducing this legislation, and he may pick up some Republican co-sponsors. There could be an event surrounding the unveiling of this legislation in the next few weeks.

*Pre-65 groups event. We are encouraging AARP and other groups to identify people helped by our policies and describe their stories at an event, maybe outside of Washington, that the President could attend in the next month or so.

*Beneficiary involvement in Medicare fraud detection. In March, the AARP kicks off a beneficiary education project on Medicare fraud. By then, we will have put the HHS hot line for reporting fraud on all Medicare claims and also be close to implementing a beneficiary incentive program for detecting fraud. The President could commit to going to educational sessions, appearing in PSAs, etc. in this public-private effort.

*Follow-up kids' health outreach event. The 17th will focus on the new children's health program state plan approvals, budget policies, foundation contributions, and private sector efforts. We are beginning to explore the feasibility of having a nationwide 1-800 number, public service announcements, and getting interested Hollywood types to begin working on this, for a possible event in March or April.

Child Care
Jen Klein

Tobacco
Elena Kagan

Environment
Katie McGinty

IMF
Jake Siewert/Tony Blinken

E X E C U T I V E O F F I C E O F T H E P R E S I D E N T

19-Jul-1996 10:32am

TO: (See Below)

FROM: Lyndell Hogan
 Domestic Policy Council

SUBJECT: RU-486 Talking Points Re: Today's Hearing

M E M O R A N D U M

To: Distribution
From: Lyn Hogan
Date: July 19, 1996
Re: Q&A For Mifepristone (RU-486) Hearing

Please refer questions about the FDA process to Jim O'Hara, 301-443-1130, at FDA Public Affairs.

Background

Today, Friday, July 19, the FDA's Reproductive Health Drugs Advisory Committee will consider data submitted by the Population Council as part of a New Drug Application (NDA) for Mifepristone. FDA routinely refers NDAs to this Advisory Committee and asks the panel for a recommendation on the drug's safety and efficacy.

Mifepristone, commonly referred to as RU-486, is an effective, non-surgical method of early abortion that has been in use since 1981. The drug was approved for use in France, Great Britain and Sweden following extensive clinical trials that demonstrated its safety and efficacy.

During the Bush Administration, the FDA issued an import alert which helped ensure that mifepristone would not be available in the United States for any purpose.

On January 22, 1993 the President issued an executive order that directed the FDA to reassess whether mifepristone qualified for importation.

1) What is expected to happen at today's FDA hearing?

Today, Friday, July 19, the FDA's Reproductive Health Drugs Advisory Committee will consider data submitted by the U.S.-based Population Council as part of a New Drug Application (NDA) for Mifepristone.

FDA routinely refers NDAs to this Advisory Committee and asks the panel for a recommendation on the safety and efficacy of the drug. Today's advisory committee is the usual next step in the review process of the marketing application.

There will not be a decision on Mifepristone in 1996.

FF

2) What official action has the President taken to date regarding RU-486?

January 22, 1993 the President issued an executive order that:

? Directed the FDA to reassess whether Mifepristone qualified for importation under FDA's personal use import policy;

? Said that if the FDA concluded Mifepristone meets the criteria for personal use importation exemption, Sec. Shalala should rescind the Import Alert 66-47; and

? Ordered HHS to assess initiatives to promote the testing, licensing, and manufacturing in the U.S. of Mifepristone.

3) Prior to this hearing, what has the FDA concluded?

In July 1993, the FDA concluded that Mifepristone is not an appropriate candidate for the FDA's personal use policy governing the importation of unapproved new drugs.

In its assessment, FDA determined that the distribution of Mifepristone is very tightly controlled in the UK, France, and Sweden, where it is approved. The strictly regulated administration of mifepristone in those countries suggests that it may not be able to be safely taken without careful medical supervision and controls.

4) Since the FDA ruled that this drug is not safe for personal use, why are they continuing with regulatory hearings?

The FDA believes the drug can be taken safely with careful medical supervision and controls, and therefore, in routine fashion, has referred the New Drug Application to this Advisory Committee to ask the panel for a recommendation on the safety and efficacy of the drug.

5) How can we be sure the FDA process is a fair, objective process?

? The FDA advisory committee is a nonpartisan, objective committee comprised of scientists and doctors from outside the FDA.

? The process for approving New Drug Applications is based in science and medicine.

? The FDA is giving mifepristone a straightforward, honest review and will make their decision on the basis of whether this drug is safe for American women.

? The FDA follows well established procedures to assess independently all published studies and data, including those from other countries.

? Voting members of the FDA Advisory Committees are subject to conflict of interest laws and regulations governing federal employees and Advisory Committee members are required to have diverse professional education, training, and experience.

6) I understand that two members on the review panel were forced to resign because of pressure from right-to-life groups. Is this true?

This is a rumor and is inaccurate. Two members on the panel had conflicts of interest so were recused.

7) What are the pro-life groups and pro-choice groups saying about RU-486?

Pro-Life

On July 18, pro-life groups held a press conference on the FDA hearings.

The Family Research Council (FRC) lead by Gary Bauer issued a statement calling on the FDA not to approve RU-486 due to ethical considerations. In the statement, the FRC questioned the drug's safety and efficacy.

At the same time, the FRC accused the FDA of attempting to circumvent its own approval statutes that ensure safe and effective drugs for the sake of the lives and safety of women and children.

Other pro-life organizations claim RU-486 has long-term health risks for mothers and children.

Last summer a pro-life group, Americans United For Life, and other abortion opponents, submitted a Citizen's Petition to the FDA opposing approval of mifepristone. They did so before the clinical trials were over and before the extensive scientific data collected by the Population Council was submitted to the FDA.

Pro-Choice

Also on July 18, women's and reproductive health advocates held a press conference to call for approval of mifepristone. These groups called mifepristone a major medical advance for women and described its expected positive impact on the provision of women's health care services in this country.

The Feminist Majority is concerned that five Reproductive Health Advisory Committee members have demonstrated that they have a conflict of interest with the subject matter of the July 19 meeting concerning mifepristone. They expressed their concern in a July 10 letter to FDA Commissioner David Kessler.

8) Why does the Population Council hold the U.S. patent on mifepristone?

Roussel Uclaf, a French subsidiary of the German company, held two United States patents for its product, Mifepristone. On May 16, 1994 Roussel Uclaf, at the encouragement of the Clinton Administration, donated its United States patent rights for mifepristone to the U.S.-based Population Council, a not-for-profit organization, to allow the Population Council to begin the necessary steps to bring Mifepristone to market in this country. U.S. clinical trials conducted by the Population Council were completed in September 1995.

Distribution:

TO: Jeremy D. Benami
TO: Martha Foley
TO: Elena Kagan
TO: George Stephanopoulos
TO: Deborah L. Fine
TO: Todd Stern
TO: Betsy Myers
TO: Peter Jacoby
TO: Carol H. Rasco
TO: Nancy-Ann E. Min
TO: Marilyn Yager
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TO: Barbara C. Chow
TO: Kathleen D. Hendrix
TO: Evelyn S. Lieberman
TO: Kevin Moran
TO: Victoria L. Radd
TO: Michael McCurry
TO: Barry Toiv
TO: Mary Ellen Glynn

00*

June 24, 1996
(Senate)

S. 1219 - Senate Campaign Finance Reform Act of 1996

(McCain (R) Arizona and 4 cosponsors)

The Administration strongly supports Senate passage of S. 1219, as amended by the Senate on June 20th.

This bipartisan legislation includes many proposals that have been endorsed by the President since 1992. It will limit campaign spending, provide free and discounted broadcast time to candidates for Federal office, curb the influence of political action committees and lobbyists, and put an end to the "soft money" system. S. 1219 will open the political process and shift power from special interests to ordinary citizens.

[The Department of Justice, in a June [24th/25th] letter to _____, has suggested how certain provisions of S. 1219 could be strengthened against potential constitutional challenge.]

* * * * *

(Do Not Distribute Outside Executive Office of the President)

This Statement of Administration Policy (SAP) was developed by the Legislative Reference Division (Johnson) in coordination with the Departments of Justice (Silas) and the Treasury (Dorsey), the Federal Election Commission (Surina), the Office of Government Ethics (Ley), White House Counsel (Kagan), Domestic Policy Council (Weinstein), White House Political Affairs (Hancox), White House Legislative Affairs (Weber), VAPD (Long, McCormick), HRD (VanWie), BRCD (Fairhall), and BASD (Stigile).

Commerce, FCC, HTF, and GC did not respond to our request for views on this SAP.

Elena Kagan of the White House Counsels office has asked that she be checked with before

this SAP is sent to the Senate, so that she can verify that Jack Quinn has personally approved it.

The United States Postal Service (USPS) objects to the SAP and to the bill because of the requirement (described below) for postal subsidies to qualified candidates. USPS has previously testified in opposition to S. 1219 and has characterized the subsidy requirement as an "unfunded mandate" on its customers that could cost "well over \$50 million per election."

Status of Senate Floor Action on S. 1219

On June 20th, the Senate began consideration of S. 1219 and, by unanimous consent, adopted for consideration an amendment in the nature of a substitute (described below). A cloture vote on S. 1219 (as amended by the substitute) is scheduled for June 25th at 2:15 p.m.

Administration Position to Date

The President referred favorably to S. 1219 in his February 17th radio address to the Nation. He stated that, as a candidate in 1992, he supported spending limits, curbing the influence of PACs and lobbyists, and an end to the soft money system. He called on Congress to pass a bipartisan campaign finance reform bill.

Constitutional Issues

The Department of Justice expects to transmit to Congress on June 24th a letter recommending amendments to S. 1219 to strengthen the bill against constitutional challenge. LRD has not yet received the letter for clearance.

Background

The Revenue Act of 1971 initiated public funding of presidential general elections. Funding was later extended to presidential primaries and nominating conventions by the Federal Election Campaign Act (FECA) of 1971. The FECA and subsequent amendments imposed limits on contributions, required uniform disclosure of campaign receipts and expenditures, and established the Federal Election Commission (FEC) as the central administrative and enforcement agency.

S. 1219 addresses congressional campaign finance. Its proponents are concerned about the increasing costs of congressional campaigns, the influence of special interest groups, and the fundraising advantages of incumbents. The principal focus of S. 1219 is on Senate campaigns. (In recent years, Senate campaign finance bills have addressed Senate campaigns, House bills have addressed House campaigns, and the two have been joined in conference.)

Major Provisions of S. 1219 as Amended on June 20th

--Voluntary Spending Limits

S. 1219 would establish voluntary Senate election spending limits. Candidates who comply with the limits and meet other requirements would be eligible for the broadcast and postal benefits described below.

Election expenditures by a Senate candidate or the candidates authorized committee could not exceed:

*for general elections, an amount based on State voting-age population, ranging from \$950,000 to \$5,500,000;

*for primary elections, the lesser of 67 percent of the general election expenditure limit or \$2,750,000;

*for runoff elections, 20 percent of the general election expenditure limit; and

*for election expenditures from the candidates personal funds (including certain loans), \$250,000 or 10 percent of the general election expenditure limit.

A candidate who complies with the spending limits and runs against a candidate who does not comply is allowed to: (1) increase his or her spending limits according to a formula in the bill; and (2) receive contributions from individuals of up to \$2,000 per individual (instead of the \$1,000 allowed under current law).

The bill also provides for inflation adjustments to the spending limits.

--Benefits

Free Broadcast Time. Under S. 1219, a candidate who has qualified for the general election and adheres to the spending limits above is entitled to receive 30 minutes of free broadcast time from stations within or adjacent to his or her State. Where there are more than two candidates, the bill provides for a total of 60 minutes of free broadcast time to be allocated among the candidates according to a formula.

Unless the candidate chooses otherwise, the time made available for broadcasting must be between 6:00 p.m. and 10:00 p.m. on any weekday. The length of each individual broadcast must be between 30 seconds and 5 minutes. A candidate may not request more than 15 minutes of free time from any one broadcasting station.

Reduced Broadcast Rates. Under S. 1219, eligible candidates are entitled to receive reduced television broadcast rates during the 30-day period prior to the primary election and the 60-day period prior to a general or special election. The maximum rate would be half of the stations lowest charge for an equal amount of time, for the same period on the same date.

Postal Subsidies. Eligible candidates are entitled to send two pieces of mail to each voting age resident at the lowest third class, non-profit bulk rate.

--Political Action Committees (PACs)

The bill prohibits candidates from accepting contributions from PACs and limits contributors to individuals and political committees. Political committees are defined as: (1) the principal campaign committee of a candidate; (2) any national, state, or district committee of a political party; and (3) some local committees of a political party. The bill provides that if this provision is held unconstitutional, PAC contributions would be limited to the maximum individual contribution, \$1,000. In addition, contributions from PACs to a candidate could not exceed 20 percent of the candidates total election spending

limit. (In 1976, the Supreme Court ruled in Buckley vs. Valeo that certain expenditure limits placed substantial restrictions on the First Amendment rights of candidates, citizens and associations.)

--"Soft Money"

The term "soft money" refers to money that may influence the outcome of Federal elections, but that is raised and spent outside the scope of Federal election laws. (Examples include corporate- or union-sponsored voter registration drives that identify a Federal candidate.)

Under S. 1219, each time individuals, unions, corporations, or partnerships raise "soft money" in excess of \$10,000, they must file statements including the purpose of the disbursement to either the Secretary of the Senate or the Clerk of the House of Representatives, and the Secretary of State of the relevant State.

The bill generally prohibits national party committees from seeking, accepting, or spending soft money. In addition, during Federal election years, funds spent by State and local committees for any activity which could affect the outcome of a Federal election are subject to FECA limitations and reporting requirements. In general, both national and State committees of a political party must report all receipts and disbursements to the FEC.

--"Bundling"

The term "bundling" refers to the collection by an intermediary of individual checks for a candidate. Under S. 1219, contributions to a candidate made by an intermediary would generally be treated as a direct contribution from both the original contributor and the intermediary for purposes of contribution limits. In addition, the intermediary must report to the FEC the original source and the intended recipient of the contribution.

--In-State Contributions

To comply with the spending limits of S. 1219, a candidate or a candidates authorized committee must receive not less than 60 percent of the total dollar amount of contributions from individuals legally residing in the candidates State. (For small States, the candidate could opt for a requirement that 60 percent of the contributors be residents of their home State.) In specified circumstances, candidates would have to report to the FEC their in-State contributions and the names and addresses of persons who contribute at least \$50 in a year.

--Other Provisions

Other provisions of S. 1219 would:

*Require certain "independent expenditures" (i.e., funds spent on direct communication with voters to advocate the election or defeat of a candidate without the cooperation or participation of a candidate) to be reported to the FEC. The bill would also increase the spending limits of candidates who had more than \$10,000 in independent expenditures spent against them (or for their opponents).

*Restrict the use of campaign contributions to legitimate and verifiable campaign expenses and prohibit the use of these contributions for personal purposes.

*Require paid campaign advertising in all types of media to include a verbal, written and/or visual (photographic) identification of the candidate. In addition, broadcast or cablecast advertisements must include a verbal statement naming the person or group responsible for the advertisement.

*Establish contribution limits for "State party grassroots funds" that would support party-building activities that are not candidate-specific.

*Authorize the FEC to: (1) prescribe regulations for computer and facsimile reporting; and (2) conduct random post-election audits to ensure voluntary compliance with the FECA.

*Limit congressional use of the franking privilege during the year in which an incumbent is up for re-election. The bill states the "intent of Congress" that any savings realized from this limitation be designated to pay for the postal subsidies required by the bill.

*Allow court decisions on the constitutionality of provisions of S. 1219 to be appealed directly to the Supreme Court.

Pay-As-You-Go Scoring

According to BASD (Stigile), S. 1219 is subject to the pay-as-you-go requirements of the Omnibus Budget and Reconciliation Act of 1990 because of provisions providing for fines for FECA violations. An OMB pay-as-you-go estimate has not been completed but similar provisions are generally scored at zero. VAPD (McCormick) advises that the postal subsidy provision would score at zero because USPS could recoup the subsidies by increasing postage rates. No CBO estimate is available.

Legislative Reference Division

6/24/96 - 3:45 p.m.

STATEMENT OF ADMINISTRATION POLICY

TO: RAHM EMANUEL
LARRY STEIN
JOHN PODESTA
SYLVIA MATHEWS
GENE SPERLING
ELENA KAGAN
JANET MURGUIA
TRACY THORNTON
BOB SHIREMAN
MIKE COHEN
BRODERICK JOHNSON
EDDIE CORREIA
RON KLAIN
KEVIN MORAN

CC: ACTING DIRECTOR LEW
CHARLES KIEFFER
BARBARA CHOW

DATE: 6/15/98
FROM: Kate Donovan, OMB Legislative Affairs
RE: FOR YOUR CLEARANCE -- Draft SAP for S. 1882 - Higher Education Amendments of 1998

Attached is a draft SAP on S. 1882 - Higher Education Amendments of 1998.

Position: Strongly Oppose.

Background: On May 6, 1998, the House passed H.R. 6, its counterpart to S. 1882, by a vote of 414-4. A SAP was released with a Presidents senior advisers veto recommendation (copy attached). On June 5, 1998, Secretary Riley sent a letter to members of the Senate objecting to the same provisions as in this draft SAP.

Timing: The Senate is expected to consider S. 1882 early this week. Therefore, we aim to send the SAP c.o.b. today, Monday (6/15). Please get comments/clearance to me (5-4790) by 4pm today. Thank you.

SCHEDULE PROPOSALDATE: September 17, 1997

 ACCEPT REGRET PENDING

TO:Stephanie Streett

FROM:Bruce Lindsey
Gene Sperling

REQUEST:For an internal meeting between the President and his advisors to discuss securities litigation preemption, in advance of the Presidents trip to California.

PURPOSE:Portions of the business community, led by the high tech companies, are urging the Administration to support legislation that would expand the reach of the Private Securities Litigation Reform Act (the "Reform Act") by preempting most state securities law fraud claims. A bill to do this has over 80 sponsors in the House and a parallel bill is being drafted by Senator Dodd. Particularly given the Presidents veto of the underlying legislation, it is important that the Administration have a carefully crafted position on this issue.

BACKGROUND:During the first year after enactment of the Reform Act, plaintiffs lawyers filed a number of class action suits in state court to avoid the impact of some of the Reform Acts provisions, primarily the stronger pleading requirements and the discovery stay. At the same time, the Reform Acts safe harbor went largely unused. Although the trend toward state actions has reversed in 1997, business wants assurances that there will be a uniform national standard on issues relating to misrepresentations, and wants to do this by preempting the jurisdiction of state courts in these cases. The high tech community believes the Presidents August 1996 remarks that Proposition 211 would "undermine national laws" means he supports their efforts.

The SEC, as well as the groups that initially opposed the Reform Act, believe it is far too early to know whether there is need for further legislation. They are also concerned that a number of lower court decisions interpreting the Reform Act have been very pro-defendant, and are reluctant to expand the Acts reach -- by removing the state court "safety valve"-- unless and until those decisions are reversed.

PREVIOUS

PARTICIPATION:The President held a series of meetings with his advisors on the Reform Act prior to vetoing the bill in late 1995. He was also briefed on the issue, including the question of attempts by the states to avoid the impact of the Act (Proposition 211), prior to a visit to California in August 1996.

DATE AND TIME:Prior to the Presidents trip to California, as he is likely to be asked his position on this legislation.

DURATION:One-half hour.

LOCATION:Oval Office

PARTICIPANTS:Erskine Bowles
John Podesta
Bruce Lindsey
Gene Sperling

Janet Yellin
Frank Raines
John Hilley
Ron Klain
Don Gips
Lisa Brown
Elena Kagan
Ellen Seidman
Paul Carey
Dan Tate

OUTLINE OF
EVENTS:Meeting

REMARKS
REQUIRED:None

MEDIA
COVERAGE:None

FIRST LADY'S
ATTENDANCE:Not required.

VICE PRESIDENT'S
ATTENDANCE:Not required.

SECOND LADY's
ATTENDANCE:Not required.

RECOMMENDED
BY:Bruce Lindsey
Gene Sperling

CONTACT:Ellen Seidman, 456-5359

SCHEDULE PROPOSALDATE: September 15, 1997

_____ACCEPT

_____REGRET

_____PENDING

TO:Stephanie Streett

FROM:Bruce Lindsey
Gene Sperling

REQUEST:For an internal meeting between the President and his advisors to discuss and reach a position on Senator Rockefeller's and Mr. Dingell's separate proposals on product liability reform.

PURPOSE:Both the House and the Senate are likely to take this bill up before they recess, and Senator Rockefeller -- whose proposal comes quite far toward the Administration's position -- is eager to have the Administration's support, as he believes he can ensure Senate passage of his bill if it has Administration support. Mr. Dingell and Mr. Arney are also pressing for our position.

BACKGROUND:Following an internal meeting on July 23, at which the President established the Administration's position on this issue, we have held a series of meetings with Rockefeller and Dingell staff and, at times, the Members. On September 5, Senator Rockefeller presented us a proposal that adopts the Administration's position on several liability for non-economic damages (i.e., there is no provision); limits the statute of repose to durable goods in the workplace covered by workers compensation; and has no large business cap on punitive damages. On the other hand, the Senator's bill would not require punitive damages to be allowed in the seven states (including Washington state) that generally do not allow them, and has several more minor problems. In addition, Senator Rockefeller did not adopt our proposed position on limiting protective orders, the most consumer-friendly part of our proposal. While the Senator's staff has indicated he would fix most of the minor problems, including tightening the small business cap on punitives, he will not move on requiring all states to allow punitives, and is unlikely to add the protective order provision without a lot more prodding. Mr. Dingell's position is less defined, but he would include a firm 18-year statute of repose for all goods, which Senator Rockefeller will not support.

PREVIOUS

PARTICIPATION:The President met with his advisors on this issue on July 23.

DATE AND TIME:Should be early this week. If we are to come to agreement with Senator Rockefeller, the time is quite short to make that effective. Otherwise, we may face Rockefeller supporting a bill the President will not want to sign, and the need to veto it once again.

DURATION:One-half hour.

LOCATION:Oval Office

PARTICIPANTS:Erskine Bowles
Bruce Lindsey

Gene Sperling
Janet Yellin
Frank Raines
John Hilley
Ron Klain
Elena Kagan
Ellen Seidman
Peter Jacoby
Tracey Thornton

OUTLINE OF
EVENTS:Meeting

REMARKS
REQUIRED:None

MEDIA
COVERAGE:None

FIRST LADY'S
ATTENDANCE:Not required.

VICE PRESIDENT'S
ATTENDANCE:Not required.

SECOND LADY'S
ATTENDANCE:Not required.

RECOMMENDED
BY:Bruce Lindsey
Gene Sperling

CONTACT:Ellen Seidman, 456-5359

SCHEDULE PROPOSALDATE: September 15, 1997

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_____REGRET

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LOCATION:Oval Office

PARTICIPANTS:Erskine Bowles
Bruce Lindsey

Gene Sperling
Janet Yellin
Frank Raines
John Hilley
Ron Klain
Elena Kagan
Ellen Seidman
Peter Jacoby
Tracey Thornton

OUTLINE OF
EVENTS:Meeting

REMARKS
REQUIRED:None

MEDIA
COVERAGE:None

FIRST LADY'S
ATTENDANCE:Not required.

VICE PRESIDENT'S
ATTENDANCE:Not required.

SECOND LADY'S
ATTENDANCE:Not required.

RECOMMENDED
BY:Bruce Lindsey
Gene Sperling

CONTACT:Ellen Seidman, 456-5359

MEMORANDUM

TO: TOM FREEDMAN, MICHAEL COHEN

CC: ELENA KAGAN

FROM: JULIE MIKUTA

RE: SAN DIEGO CHARTER SCHOOLS

DATE: JUNE 12, 1997

SUMMARY

San Diego has eight functioning charter schools (as of 1/10/97), which is more than any other district in California except LA (see attached list of schools). President Clinton spoke at OFarrell Community School on 9/22/95 (see attached description of OFarrell). He praised it and schools like it as "the envy of a nation" [San Diego Union-Tribune, 9/23/95].

SUPPORT/ OPPOSITION WITHIN CALIFORNIA

Gov Wilson is very supportive of charter schools. In 1992, he signed legislation allowing for up to 100 of Californias 7,700 public schools to convert to charter school status.

Teachers unions have been in adamant opposition to charter schools.

In May, 1996, Gov Wilson endorsed six pending bills that would raise or abolish the cap on the number of charter schools and allow entire school districts to propose local charters.

STATE SURVEY OF CHARTER SCHOOLS CITED 3 IN SAN DIEGO AS GOOD EXAMPLES

A report done by the Little Hoover Commission, a state watchdog agency, cited these San Diego charter schools as good examples: Darnall E-Campus; OFarrell Community School; and Academy High School in Vista. The Charter School of San Diego was mentioned for targeting students who are not doing well in the regular school system [San Diego Union-Tribune, 3/8/96].

OFarrell is recognized as one of the most innovative and successful middle-level schools in the country [Vice-President, Board of Education, San Diego Unified School District in Letter to Editor, San Diego Union-Tribune, 10/12/95].

0.00.

September 18, 1998

MEMORANDUM FOR ELENA KAGAN AND SALLY KATZEN

FROM: JULIE FERNANDES and CECILIA ROUSE

RE: AMENDED WYDEN-GRAHAM AGRICULTURAL GUESTWORKERS BILL

As you know, Senators Wyden and Graham have put forward a series of changes to their bill to reform the H-2A agricultural guestworker program. On Friday morning, you will be meeting with staff of Senators Ron Wyden (D-OR), Bob Graham (D-FL), Edward Kennedy (D-MA), and Dianne Feinstein (D-CA), and Representatives Howard Berman (D-CA), Sanford Bishop (D-GA), and Xavier Becerra (D-CA), to discuss where we are.

Though their new proposal does move in our direction in a few areas (e.g., it restores the requirement that growers reimburse workers for transportation; eliminates the provision that would have required reducing workers wages by 20% as an incentive to repatriate; adds a requirement that growers make a "good faith" effort to assist workers in utilizing the housing voucher), fundamental substantive objections remain. The following is a list of the most significant problems with the new Wyden-Graham proposal.

1. The bill would eliminate the current requirement that growers must conduct private market recruitment for workers, substituting a simple requirement to check a new and untested government-run "job registry".

The core of the Wyden-Graham bill remains the creation of a new "job registry" administered by the government. Under their bill, growers would need only to check this registry before employing H-2A workers. Thus, all responsibility for the recruitment of domestic farmworkers would shift to a new, untried, process for which the government and low-wage workers are entirely responsible. In addition, although this registry would take years to create and implement effectively, employers could begin to hire H-2A workers within 6 months of the enactment of the bill.

At last weeks meeting, there was some discussion about extending the start date for the use of the registry from six months to one year after the enactment of the bill. However, even if this change is made, it would not address the fundamental problems with the proposed registry: (1) that use of the registry would relieve the growers of any obligation to do positive recruitment; and (2) that the bill would require wholesale reliance on a method of recruitment that has not been shown to be effective.

2. The bill would erode U.S. worker wages.

The wage provisions of the Wyden-Graham bill have not changed. Under the current program, growers who employ H-2A workers are required to pay all their farmworkers the higher of the prevailing wage (equal to the average local wage for the crop) or an "adverse effect wage rate" (AEWR) (equal to the average statewide wage). The use of the AEWR reflects the fact that foreign workers (both undocumented and H-2A guestworkers) can sometimes dominate a local labor market and depress the local prevailing wage: in such a case, using a statewide

calculation (the AEW) may be more appropriate. The Wyden-Graham bill caps the AEW at 105% of the local prevailing wage. We continue to believe that this cap is not set high enough to compensate for the depression of wages in areas where there is a heavy reliance on foreign workers and not sufficiently high to attract new U.S. workers into agricultural employment.

In addition, the current proposal from Sens. Wyden and Graham does not include the much-discussed "user fee" (equal to 8 percent of the H-2A workers wage). Without this fee, the wage cost of hiring a U.S. workers remains 8 percent higher than hiring an H-2A worker.

3. The bill does not provide an adequate mechanism for housing foreign guestworkers.

Though the proposal continues to replace the requirement that growers provide housing with a requirement that the growers provide workers with a housing voucher, it now includes a requirement that growers make a "good faith" effort to locate housing for the worker. Though this minimal assistance obligation is an improvement, the fundamental obligation that the grower assure that workers are adequately housed would be eliminated. Also, though the Wyden-Graham proposal permits States to certify that there is inadequate housing for farmworkers (within one year of enactment of the bill), there is no requirement that States make an assessment of their rural housing stock and no incentive for them to do so. Further, even if such a certification is made by a State, the growers may still provide vouchers instead of housing for up to four additional years.

There are many areas (particularly in the West) where there simply is not an adequate supply of rural housing to meet the needs of farmworkers. This proposal does not address that. Rather, it gives a grower a minimum of five years after enactment of the bill to continue to use vouchers, regardless of the availability of adequate housing. Moreover, even with the "good faith" assistance by growers, it remains unrealistic to expect low-wage foreign migrant farmworkers to be able to secure housing using a federal voucher. Thus, many workers will likely end up without housing, or will overcrowd any available rental housing.

4. The bill would eliminate the requirement that growers guarantee part of the work offered to recruit U.S. and foreign workers.

This proposal continues to eliminate the requirement that growers guarantee 3/4 of the work offered to recruit U.S. and foreign farmworkers. Under current law, H-2A workers must be paid for at least 75% of the work contract period for which they were recruited, except when there is an "act of God." This "three-fourths guarantee" gives migrant workers some indication of their potential earnings and discourages employers from over-recruiting to secure a labor surplus and drive down wages. Though Wydens staff discussed trying to include a modified version of this requirement in their bill, their most recent proposal does not restore this protection. The elimination of the 3/4 guarantee would encourage growers to lure workers from hundreds or thousands of miles away with the promise of potentially high earnings without any obligation to fulfill any part of that promise. The change also could encourage growers to recruit more workers than they actually need to hedge against uncertainties.

The Wyden-Graham proposal would require H-2A workers to be covered under the Migrant and Seasonal Worker Protection Act (MSPA). Under MSPA, U.S. migrant farmworkers appear to enjoy a guarantee of 100% of the work contract period for which they were recruited. There is some internal dispute as to whether Wydens proposal to cover H-2A workers under MSPA

would mean that H-2A workers would enjoy a 100% work guarantee. No one on either Sen. Wydens or Sen. Grahams staff has claimed that this change would provide such a guarantee.

0.00.

September 18, 1998

MEMORANDUM FOR ELENA KAGAN AND SALLY KATZEN

FROM: JULIE FERNANDES and CECILIA ROUSE

RE: AMENDED WYDEN-GRAHAM AGRICULTURAL GUESTWORKERS BILL

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Though their new proposal does move in our direction in a couple of areas (e.g., it restores the requirement that growers reimburse workers for transportation and adds a requirement that growers make a "good faith" effort to assist workers in utilizing the housing voucher), fundamental substantive objections remain. The following is a list of the most significant problems with the new Wyden-Graham proposal.

1. The bill would eliminate the current requirement that growers must conduct private market recruitment for workers, substituting a simple requirement to check a new and untested government-run "job registry".

The core of the Wyden-Graham bill remains the creation of a new "job registry" administered by the government. Under their bill, growers would need only to check this registry before employing H-2A workers. Thus, all responsibility for the recruitment of domestic farmworkers would shift to a new, untried, process for which the government and low-wage workers are entirely responsible. In addition, although this registry would take years to create and implement effectively, employers could begin to hire H-2A workers within 6 months of the enactment of the bill.

At last week's meeting, there was some discussion about extending the start date for the use of the registry from six months to one year after the enactment of the bill. However, even if this change is made, it would not address the fundamental problems with the proposed registry: (1) that use of the registry would relieve the growers of any obligation to do positive recruitment; (2) that the bill would require wholesale reliance on a method of recruitment that has not been shown to be effective; and (3) that even one year is likely not enough time for the registry to be implemented effectively.

2. The bill would erode U.S. worker wages.

The wage provisions of the Wyden-Graham bill have not changed. Under the current program, growers who employ H-2A workers are required to pay all their farmworkers the higher of the prevailing wage (equal to the average local wage for the crop) or an "adverse effect wage rate" (AEWR) (equal to the average statewide wage). The use of the AEWR reflects the fact that foreign workers (both undocumented and H-2A guestworkers) can sometimes dominate a local labor market and depress the local prevailing wage: in such a case, using a statewide

calculation (the AEWR) may be more appropriate. The Wyden-Graham bill caps the AEWR at 105% of the local prevailing wage. We continue to believe that this cap is not set high enough to compensate for the depression of wages in areas where there is a heavy reliance on foreign workers.

In addition, the current proposal from Sens. Wyden and Graham bill does not include the much-discussed "user fee" (equal to 8 percent of the H-2A workers wage). Without this fee, the wage cost of hiring a U.S. workers remains 8 percent higher than hiring an H-2A worker.

3. The bill does not provide an adequate mechanism for housing foreign guestworkers.

Though the proposal continues to replace the requirement that growers provide housing with a requirement that the growers provide workers with a housing voucher, it now includes a requirement that growers make a "good faith" effort to locate housing for the worker. Though this minimal assistance obligation is an improvement, the fundamental obligation that the grower assure that workers are adequately housed would be eliminated.

As was outlined previously, there are many areas (particularly in the West) where there simply is not an adequate supply of rural housing to meet the needs of farmworkers. This proposal does not address that. Moreover, even with the "good faith" assistance by growers, it remains unrealistic to expect low-wage foreign migrant farmworkers to be able to secure housing using a federal voucher. Thus, many workers will likely end up without housing, or will overcrowd any available rental housing.

4. The bill would eliminate the requirement that growers guarantee part of the work offered to recruit U.S. and foreign workers.

This proposal continues to eliminate the requirement that growers guarantee 3/4 of the work offered to recruit U.S. and foreign farmworkers. Under current law, H-2A workers must be paid for at least 75% of the work contract period for which they were recruited, except when there is an "act of God." This "three-fourths guarantee" gives migrant workers some indication of their potential earnings and discourages employers from over-recruiting to secure a labor surplus and drive down wages. Though Wydens staff discussed trying to include a modified version of this requirement in their bill, their most recent proposal does not restore this protection. The elimination of the 3/4 guarantee would encourage growers to lure workers from hundreds or thousands of miles away with the promise of potentially high earnings without any obligation to fulfill any part of that promise. The change also could encourage growers to recruit more workers than they actually need to hedge against uncertainties.

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105% of the local prevailing wage. We continue to believe that this cap is not set high enough to compensate for the depression of wages in areas where there is a heavy reliance on foreign workers.

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Presidential Advisory Council on HIV and AIDS

Services Committee Minutes

January 31, 1997

11:00 am

Present: Nicholas Bollman, Chair

Tonio Burgos
Joseph Edelheit
Patsy Fleming
Tom Henderson
Scott Hitt
Carol laFavor
Steve Lew
Daniel Montoya
Michael Rankin
Jason Wright

Absent: Stephen Abel

Regina Aragon
Mary Boland

1. Additions or deletions to the agenda

There are no additions or deletions.

2. General PACHA information to convey to the Committee

Patsy Fleming: SSS will be funded by HHS. The funding is satisfactory for the needs of the Council. The next meeting of the Council will be from April 5th (Saturday) to April 8th (Tuesday) at the Madison Hotel in Washington, DC. At a meeting arranged by Bruce Reed, she met with cabinet members including HHS, Education, and the Interior and head speech writer Michael Waldman to discuss the State of the Union Address and the inclusion of domestic policy issues in it. She had the chance to speak about the need to include AIDS language and gave a copy of some language to Michael Waldman. There is support for AIDS language in the State of the Union Address.

Daniel Montoya: He will send out information.

Joseph Edelheit: Because of the Sabbath, he requests that the most important sessions of the meeting of the Council not begin until Saturday afternoon.

Follow-up Activities:

(Please note: Committee members who have taken responsibility for an activity of Committee work, we identified as point persons.)

Leadership/Budget Recommendations:

Patsy Fleming: There are increases in the budget; however, they are not as large as past increases. The increases used the FY 1997 budget as the base, which was very good to begin with.

1) Ryan White, especially ADAP - Point Person: Bollman

Patsy Fleming: Almost everything will increase.

2) HOPWA - Point Person: Burgos (suggested)

Patsy Fleming: Almost everything will increase. HOPWA is protected categorically. The \$25 million was reprogrammed into the base for 1997.

3) Medicaid/per capita cap - Point Person: Burgos

Patsy Fleming: President Clinton has proposed a Medicaid per capita cap. The Council should weigh in on the issue. There is no position on the issue from the Council.

Tonio Burgos: The NGA is preparing to send a letter to the President expressing their concern about the per capita cap. Governors of northeastern states are especially opposed to the per capita cap. The cap will pass on costs to county and local governments.

Mike Rankin: Governors of western states are also opposed to the cap.

ACTIONNOTE: A recommendation will be developed and presented at the April meeting.

4) Welfare reform/legal immigrants issues - Point Person on Welfare Reform: Isbell/Point Person on Legal Immigrants: Lew (suggested)

Patsy Fleming: President Clinton wants to make changes, but changes may be difficult because of resistance in Congress. She will try and obtain information on the proposed changes and timetable.

Native American recommendations - Point Persons: laFavor and Landau

Patsy Fleming: Native American issues will be discussed at the Roundtable on February 11, 1997, at the White House Conference Center. Relevant officials of the HHS and the Department of the Interior will be involved. A summary of the Roundtable discussion and recommendations will be sent out.

1) Reassess legislative intent re: Ryan White

Patsy Fleming: Joe O'Neill and Kathy Marconi are assessing the legislation.

2) IHS review of adequacy of access to prevention, care, and treatment

Patsy Fleming: Progress on the IHS review is slow.

3) Case management oversight guidelines

Access to Treatment

1) Standards of care - Point person: Abel

Patsy Fleming: There was a meeting on January 24, 1997. She was not at the meeting. A report will be forthcoming, and circulated to the Committee (at the full Council meeting).

2) Cost of pharmaceuticals - Point Person: Bollman

Patsy Fleming: In the Office of the Vice President, there has not been action on the cost of pharmaceuticals, but there has been action on pharmaceuticals and children. It wants pharmaceutical companies to conduct tests on drugs for children as well as adults so that the drugs can be approved for children and adults simultaneously. The Office of the Vice President is working with the FDA as well as others such as the Pediatric AIDS Foundation.

3) "What if" dialogue - Point Person: Bollman

There is a movement to set up a "Keystone" process regarding the recommendation of the Council. The Office of the Vice President is interested, but it has not signed on to direct this effort.

4) HCFA and HRSA demos - Point Person: Bollman

Patsy Fleming: There has been no action. Jeff Levi had worked on the demos. She suggested that Nick Bollman contact Jeff Levi to discuss the status.

5) Disability Reform/Back To Work Issues - Point Person: Edelheit

There is work on health coverage policies under Medicare and Medicaid.

Daniel Montoya: He has talked with Diana Fortuna of the Domestic Policy Council staff responsible for this area. Any information available will be sent out as soon as it is available. There should be information around February 6th.

Joseph Edelheit: He is concerned about the definition of "disability."

ACTION Patsy Fleming: There is a taskforce working on the redefinition. Diana Fortuna has been invited to the meeting of the Council in the past and should be invited for the April meeting. A table on the issue was sent out. One issue is the loss of benefits when someone returns to work.

Daniel Montoya: He will follow up with Diana Fortuna and work with Joseph Edelheit.

6) White House Advisory Council on Consumer Protection and Quality in Health

Patsy Fleming: The council will be appointed "soon." We have put forward names for the council. The point person will be determined later. Daniel Montoya will follow up.

Military clinical research program - Point Person: Henderson

President Clinton has asked for an increase for the DOD AIDS research program in the budget.

Michael Rankin: He has not heard anything about the program for a few weeks.

Tom Henderson: He has been working with Jim Bruce. He will send related correspondence sent by Jim Bruce to Daniel Montoya.

With the International Committee - Point Person To Be Determined

The issue is the access of developing countries to OI medications and other basic medications and medical interventions. The United States must play a leadership role in the issue of access.

Patsy Fleming: She has talked to UNAIDS. The issue is of great importance to her personally. There is nothing in the federal government on the issue. USAID has been concerned with prevention and care but not access. USAID should promote access. There is a need for coordination on this issue. There is a great deal of interest in many places although not in the federal government. We should work with the Department of State and/or USAID for action. Robert Fogel is preparing a letter to Undersecretary of State Tim Wirth and Acting National Security Advisor Sandy Berger. We should talk to Sally Shelton at UNAIDS. It will be harder to work with USAID than the Department of State. She suggests writing to Undersecretary Wirth.

Daniel Montoya: He asks that Tom Henderson talk with Robert Fogel about the issue.

With the Research Committee - Point Person: Rankin

The issue is medical marijuana. There is an editorial in the current New England Journal of Medicine. There is no recommendation from the Research Committee at this time.

Daniel Montoya: He will talk with Alexandra Levine.

2. New issues

Regina Aragon is taking a leave of absence of approximately nine months. Daniel will touch base with her about her Council involvement and cc Peg Clark.

3. Schedule of conference calls and plans for April meeting

Daniel Montoya: He would like update reports from the point people.

Nicholas Bollman: He would like a to put these reports into a memorandum to the Council to be included in the materials sent for the April meeting.

Patsy Fleming: She has met with Bruce Reed, Assistant to the President for Domestic Policy and Elena Kagan Deputy Assistant to the President for Domestic Policy and will meet

with Sylvia Matthews. She would like to sensitize the new White House staff to AIDS issues. We should invite Bruce Reed to the April meeting of the Council, and/or a social event at the time of the April meeting.

M E M O R A N D U M

TO: BRUCE REED, ELENA KAGAN

FROM: TOM FREEDMAN, MARY L. SMITH

RE: EXECUTIVE ORDER ON SEXUAL ORIENTATION

DATE: JULY 15, 1997

SUMMARY

In response to your request to draft an executive order prohibiting discrimination regarding sexual orientation, enclosed is a draft executive order modifying Executive Order 11478 which concerns discrimination in the Federal Government.

There currently is no executive order concerning discrimination based on sexual orientation. As the result of an Office of Personnel Management recommendation, most of the agencies currently have explicit policies that prohibit discrimination based on sexual orientation, with the notable exceptions of the Department of Defense and NASA. Statutory authority seems to exist for prohibiting discrimination based on sexual orientation in the Civil Service Reform Act (CSRA), which covers certain federal employees.

Currently there are two bills on the Hill, one in the House and one in the Senate, that would prohibit discrimination based on sexual orientation.

STATE OF THE LAW

I. POLICY STATEMENTS

On March 10, 1997, OPM issued a recommendation to all agencies that they "issue a strong management statement which clearly defines the Federal Governments policy with regard to discrimination based on conduct which does not adversely affect the performance of employees or applicants for employment." The Federal Governments policy includes discrimination based on sexual orientation. The March 10, 1997 memo was a reiteration of two previous OPM memoranda that discussed the Federal Governments policy on discrimination in employment, one dated May 12, 1980, and one dated February 17, 1994. During President Clintons first term, most of the agencies complied with OPMs recommendation by issuing a policy statement prohibiting discrimination, explicitly including discrimination based on sexual orientation, with two notable exceptions. The Department of Defense appears to have taken no action to issue a policy statement. In addition, NASAs General Counsel explicitly refused to issue a policy because he believed that a policy statement was not necessary because employees were already adequately protected and to issue a new policy would elevate discrimination based on sexual orientation above other types of discrimination.

II. CIVIL SERVICE REFORM ACT

5 U.S.C. section 2302(b) states that "[a]ny employee who has authority to take, direct others to take, recommend, or approve any personnel action, shall not, with respect to such authority:

(10) discriminate for or against any employee or applicant for employment on the basis of conduct which does not adversely affect the performance of the employee or applicant or the performance of others; except that nothing in this paragraph shall prohibit an agency from taking into account in determining the suitability or fitness any conviction of the employee or applicant for any crime under the laws of any State, or the District of Columbia, or of the United States.

In a Civil Service Bulletin dated December 21, 1973, the Civil Service Commission stated:

You may not find a person unsuitable for Federal Employment merely because that person is a homosexual or has engaged in homosexual acts, nor may such exclusion be based on a conclusion that a homosexual person might bring the public service into contempt. You are, however, permitted to dismiss a person or find him or her unsuitable for Federal employment where the evidence establishes that such persons homosexual conduct affects job fitness --excluding from such consideration, however, unsubstantiated conclusions concerning possible embarrassment to the Federal service.

In *Ashton v. Civiletti*, 613 F.2d 923, 927 (D.C. Cir. 1979), the court cited the above bulletin as the policy "applicable to the great bulk of employees in the federal service."

In the May 12, 1980 OPM memorandum cited above, the Director of OPM elaborated on the Civil Service Reform Acts prohibition of discrimination based on non-job-related conduct by stating: "Thus, applicants and employees are to be protected against inquiries into, or actions based upon, non-job-related conduct, such as religious, community or social affiliations, or sexual orientation." In February 17, 1994, OPM reiterated that the "1980 memorandum continues to reflect the Federal Governments longstanding policy on the matter of discrimination based on non-job-related conduct."

THE HILL

1.H.R. 1858 by Rep. Shays (R-CT) on 6-10-97 (150 cosponsors). EMPLOYMENT NON-DISCRIMINATION ACT OF 1997. This Act prohibits employment discrimination based on sexual orientation. The Act provides the remedies provided in Title VII of the Civil Rights Act of 1964 for aggrieved individuals. However, the Act does not apply to the provision of employee benefits.

2.S. 869 by Sen. Jeffords (R-VT) on 6-10-97(33 cosponsors). EMPLOYMENT NON-DISCRIMINATION ACT OF 1997. This Act is essentially the same as H.R. 1858 above.

3.S. 47 by Sen. Helms on 1-21-97. This bill prohibits the executive branch of the federal government from establishing an additional class of individuals that is protected against discrimination in federal employment other than those classes identified in the Civil Rights Act of 1964, the Age Discrimination in Employment Act of 1967, and the Rehabilitation Act of 1973.

WHAT AGENCIES HAVE

*NASA refused to adopt a policy.

*The Department of Defense does not have a policy.

*Agencies that have adopted a policy of prohibiting discrimination based on sexual orientation: Department of Commerce, Department of Health and Human Services, Department of

Housing and Urban Development, Department of the Interior, Department of Justice, Department of Labor, Department of State, Department of Transportation, Department of Treasury, Department of Veterans Affairs, Small Business Administration

OPTIONS

1. Modify Executive Order 11478 entitled "Equal employment opportunity in the federal government" to add sexual orientation as a category to Section 1.

PROS: This would be the most efficient method to include sexual orientation because E.O. 11478 already covers the topic of discrimination.

CONS: Sections 3 through 5 of E.O. 11478 discuss the EEOC. Title VII of the Civil Rights Act of 1964, 42 U.S.C. sec. 2000e, prohibits discrimination only on the basis of race, color, religion, sex or national origin. The Age Discrimination in Employment Act of 1967 prohibits discrimination on the basis of age. The Rehabilitation Act of 1973 prohibits discrimination on the basis of physical or mental disability. By adding "sexual orientation" to Section 1 of E.O. 11478, Section 1 will no longer mirror the classes of prohibited discrimination in Sections 3-5. Some persons may perceive that the President is trying to legislate via executive order.

2. Create a new executive order with only sexual orientation as a category of prohibited discrimination.

CONS: This may single out sexual orientation too much. Some persons may perceive that sexual orientation is entitled to greater protection than other types of discrimination.

January 22, 1996

MEMORANDUM FOR JANE SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

ELENA KAGAN
ASSOCIATE COUNSEL TO THE PRESIDENT

FROM:TERRY GOOD
OFFICE OF RECORDS MANAGEMENT

RE:SUBPOENA FOR DOCUMENTS

Attached are copies of various documents in response to your request for:
any and all documents and/or communications referring or relating to the location, efforts
to locate, production, efforts to produce, whereabouts, or existence of documents referring
or relating to: (a) legal representation provided by, legal work performed by, or Rose Law
Firm compensation allocated to Hillary Rodham Clinton; or (b) legal representation provided
to or legal work performed for Madison
Guaranty Savings & Loan.

STATEMENT OF ADMINISTRATION POLICY

TO: JACK LEW
SYLVIA MATHEWS
JOHN PODESTA
MARIA ECHAVESTE
LARRY STEIN
CHUCK BRAIN
LISA KOUNTOUPES
GENE SPERLING
ELENA KAGAN
KATIE MCGINTY
WESLEY WARREN
LYNN CUTLER
CHUCK KIEFFER
ELIZABETH GORE

DATE: 8/4/98

FROM: Kate Donovan, OMB Legislative Affairs

RE: FOR YOUR CLEARANCE -- Draft Interior letter H.R. 4087/S. 1279 - To amend the Indian Employment, Training and Related Services Demonstration Act of 1992 to provide for the transfer of services and personnel from the Bureau of Indian Affairs to the Office of Self-Governance, to emphasize the need for job creation on Indian reservations, and for other purposes.

POSITION: SECRETARY OF INTERIOR VETO RECOMMENDATION ON THE PROVISION TO SHIFT ADMINISTRATIVE RESPONSIBILITY FROM THE BUREAU OF INDIAN AFFAIRS TO THE OFFICE OF SELF-GOVERNANCE.

BACKGROUND: Interior sent a letter on S. 1279 to the Senate Indian Affairs committee on 3/31/98 with an "OPPOSE" position (copy attached). The Senate passed the bill on 6/18/98 by UC.

CLEARANCE: TJ Glauthier has approved.

TIMING: Interior aims to send the letter Wednesday morning to possibly get the bill pulled from future Committee action. Please review & provide comments/clearance to Kate Donovan at 5-4790. Thanks.

January 7, 1998

MEETING WITH CONGRESSIONAL DEMOCRATS

DATE: Thursday, January 8, 1998

LOCATION: Cabinet Room

TIME: 9:15 am-10:15 am

FROM: John Hilley

I. PURPOSE

This is an opportunity to elicit the views of Congressional Democrats on the use of the projected budget surplus and Social Security.

II. BACKGROUND

The projected unified surpluses are attracting increased attention, and a crucial part of your State of the Union address will be what you say about our approach to the unified surplus and to Social Security reform. Although our thinking on this subject has progressed significantly, the subject is extremely sensitive -- so we have not sounded out our likely allies and traditional supporters. At our meeting with you on Monday, you indicated that you wanted to meet with Congressional Democratic leaders regarding our potential proposal before having any further internal discussions. This meeting is intended to fulfill that request.

III. PARTICIPANTS

Pre-Brief (8:45 am-9:15 am-Oval Office)

The President

The Vice President

Secretary Rubin

Erskine Bowles

John Hilley

Gene Sperling

Frank Raines

Jack Lew

Larry Summers

Ken Apfel

Meeting (9:15 am-10:15 am-Cabinet Room)

The President

The Vice President

Secretary Rubin

Erskine Bowles

John Hilley

Gene Sperling
Frank Raines
Jack Lew
Larry Summers
Ken Apfel
Ron Klain
John Podesta
Sylvia Mathews
Janet Yellen
Rahm Emanuel
Paul Begala
Bruce Reed
Elena Kagan
Maria Echaveste
Martha Foley
Linda Robertson

MEMBERS CONFIRMED TO ATTEND:

Rep. Dick Gephardt (D-MO)
Sen. Byron Dorgan (D-ND)
Sen. Frank Lautenberg (D-NJ)
Rep. David Bonior (D-MI)
Rep. Charles Rangel (D-NY)
Rep. Sandy Levin (D-MI)
Rep. Vic Fazio (D-CA)
Rep. Earl Pomeroy (D-ND)
Rep. Cal Dooley (D-CA)
Rep. John Spratt (D-SC)
Rep. Bill Delahunt (D-MA)
Rep. Jim Davis (D-FL)

MEMBERS PENDING:

Sen. Barbara Mikulski (D-MD)
Sen. Paul Sarbanes (D-MD)
Sen. Ed Kennedy (D-MA)
Sen. Tom Harkin (D-IA)
Rep. Tim Roemer (D-IN)
Rep. John Tanner (D-TN)

MEMBERS INVITED BUT UNABLE TO ATTEND:

Sen. John Breaux (D-LA)
Sen. John Rockefeller (D-WV)
Sen. Daniel Moynihan (D-NY)
Sen. Joe Lieberman (D-CT)
Sen. Bob Kerrey (D-NE)
Sen. Kent Conrad (D-ND)
Sen. Tom Daschle (S-SD)
Sen. Chris Dodd (D-CT)
Sen. Bob Graham (D-FL)
Sen. Carol Mosely-Braun (D-IL)
Sen. Harry Reid (D-NV)
Rep. Xavier Becerra (D-CA)

Rep. Barbara Kennelly (D-CT)
Rep. Richie Neal (D-MA)
Rep. Ben Cardin (D-MD)
Rep. Chuck Stenholm (D-TX)
Rep. Steny Hoyer (D-MD)
Rep. Karen Thurman (D-FL)

IV. PRESS PLAN

Closed Press.

V. SEQUENCE OF EVENTS

As Usual.

VI. REMARKS

None.

VII. ATTACHMENTS

None.

November 5, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Gene Sperling
Elena Kagan
Sally Katzen

SUBJECT: State of the Union/Budget Ideas

This memorandum provides a brief description of new ideas we are considering for the State of the Union. Some work has been done on fleshing them out, but many need additional work and further vetting through the interagency process. Most of these ideas involve increased spending, and you will have to make choices among them and/or scale them back as you consider the FY 2000 budget. Although our offices have worked together on many, if not most, of the ideas in this memo, we have noted, where possible, which of our offices has the lead role with respect to each proposal. Options relating to Social Security are not included in this memo.

EDUCATION AND TRAINING (DPC/NEC as specified)

1. Ending Social Promotion. Last years budget proposal included \$200 million for Education Opportunity Zones in districts that agreed to remove bad teachers, turn around failing schools, and end social promotions. The proposal required authorization, which Congress will never give us. For next year, we recommend a simpler approach that uses existing authority and focuses entirely on ending social promotion. We would like to expand our after-school program from \$200 million to \$700 million and give a disproportionate share of this money to districts that end social promotion. These school districts could use the money (as Chicago does) to provide extra help after school and mandatory summer school for students who need it. (Cost: \$300 million above FY99 budget.) (DPC)

2. Teacher Quality and Recruitment. Now that were on track to begin hiring 100,000 new teachers to reduce class size, we have an even greater responsibility to help communities attract talented new teachers to the profession. We envision a five-part strategy on teacher quality and recruitment: (1) a \$100 million increase in the teacher recruitment scholarships we enacted this year in the Higher Education Act, which would put us on course to attract 60,000 new teachers at high-need schools over the next five years; (2) a \$60 million initiative -- modeled after the successful Troops-to-Teachers program -- that would help states expand alternative certification routes and attract talented people from other professions, such as military personnel and employees in firms being downsized; (3) a nationwide crackdown on teacher education schools, including new regulations authorized by the Higher Education Act to require report cards for education schools; (4) a \$50 million increase in the Eisenhower program to send secondary school teachers who teach outside their field back to college to take additional courses in the subjects theyre teaching, coupled with a new requirement that new secondary teachers pass competency tests in a subject before they can teach it; and (5) a high-profile effort to help states make the

most of the 15 percent set-aside for teacher quality in the recently passed class size legislation. (Cost: about \$210 million above FY99 budget). We are also exploring a politically interesting counter to private school choice: vouchers for private school teachers -- i.e., an incentive program to encourage private school teachers to teach in public schools. (DPC)

3. Work-Site Schools. One of the most promising new education ideas sprouting up around the country is the creation of public schools at work sites, designed primarily to serve employees children. School districts provide the teachers and curriculum; companies provide facilities and upkeep. These schools-at-work serve a host of objectives at once, by (1) providing new facilities at no cost to the district; (2) increasing parental involvement in the schools and parental satisfaction in the workplace; (3) reducing employee turnover and absenteeism; and (4) increasing school diversity, because work sites are more diverse than residential neighborhoods. We propose a \$100 million increase in an existing discretionary program to provide grants to 100 communities to launch work-site schools. We also could seek a stand-alone bill (like the charter school law) to advance this idea. In addition, we are working with Treasury to develop a tax credit for businesses that start on-site schools, similar to the Kohl business tax credit for on-site child care that is already in our budget. (Cost: \$100 million for start-up grants. No estimate yet for tax credit, but it will be very small.) (DPC/NEC)

4. Public School Choice. As support grows for private school vouchers, we must continue our efforts to expand choices within the public schools. Charter schools are one answer, and we recommend a \$20 million increase, to \$120 million, to keep us on track to 3,000 charter schools by 2002. Work-site schools are another. We also recommend increased funding for (1) an existing grant program that helps urban and suburban school districts reduce racial isolation by forming interdistrict magnet programs; and (2) magnet schools on university campuses, especially in urban areas. (Cost: \$25 million for interdistrict magnet programs; \$15 million for 10 university-based schools.) (DPC)

5. School Leadership Academies. Research has shown that an effective principal is the single most important indicator of school success, yet little has been done at the national or state level to improve the management skills of principals. We propose a small initiative to create school leadership academies that would provide training in management, teacher evaluation, school discipline, and other areas to elementary school principals in high-poverty districts. (Cost: \$50 million) (DPC)

6. Class size. To stay on course to reach 100,000 new teachers in seven years, we will ask for \$1.3 billion in the FY2000 budget. We are planning an ambitious rollout of the class size initiative over the next year, as we award first-year funding, issue guidance to local districts on how the program works, and so on. We also will press Congress to restore the local matching requirement and strengthen the provisions to require competency testing of new teachers. (DPC)

7. Adult Literacy. According to the National Adult Literacy Survey, 44 million adults struggle with a job application, cannot read to their children, or are left on the welfare rolls because they lack basic skills. We are considering: (1) Workplace: a new tax credit and/or Federal grants to encourage employers to provide adult basic education classes at the worksite, and setting aside funds for work-based literacy projects within Welfare-to-Work competitive grants (see welfare section of this memo); (2) Community: expanding the infrastructure and funding for adult basic education through the Adult Education program, encouraging the development of programs focused on easing the transition

to the U.S. for new immigrants (through ESL and civics classes), subsidizing the provision of child care on college campuses and other adult education sites, and launching a national information campaign to make people aware of the problem of functional illiteracy and of available services; and (3) Home: using the new Learning Anytime Anywhere Partnerships to create software for adult basic education using \$200 computers (e.g., WebTV, game players) and subsidizing public housing projects that create computer literacy programs. (NEC)

8. National Campaign to Open Doors of College. Notwithstanding enormous strides we have made in reducing the financial barriers to college, too many families assume college is more expensive than it really is and are not aware of the aid that is available (Even among low-income youth with high test scores, one-fourth say they have not been able to get much information about financial aid for college). We are planning: (1) launching a major national public information campaign about college costs and financial aid (e.g. naming a national chairman such as Bill Cosby, having a national college visit day, etc.), (2) building on the authority in the new GEAR UP program, providing every middle school (e.g. 7th grade counselor) with the ability to give students a "21st Century Scholar Certificate," indicating the financial aid that they are eligible for, and (3) seeking to provide every high-poverty middle school with a college partner. This does not require any new investment, just some focus and creativity. (NEC)

9. Improving the College Success Rate. Getting people in the doors of college is not enough to close the racial and income opportunity gaps. For example, only 21% of African-American and 18% of Hispanic students who begin college complete a bachelors degree within 5 years compared to 30% of White students. We are considering a package of policies, including: (1) a super-Pell grant for the lowest income families and/or to encourage a full-time focus on school in the first year of college (this would be expensive); (2) expanding successful mentoring and other support services in colleges (including those aimed at graduate school preparation); (3) promoting college course-taking while in high school; (4) improving articulation between two-year and four-year colleges; (5) encouraging partnerships between predominately minority-serving and predominately majority-serving institutions of higher education (particularly to promote graduate study); and (6) establishing a bridge fellowship program for graduate study in science and technology fields for minorities and women. (NEC)

10. School Modernization. The current assumption is that we will repeat this years proposal for tax credits to build and renovate schools covering the interest on nearly \$22 billion in bonds. We are, however, critically comparing our current proposal against other possible mechanisms to ensure we have the most effective approach. (NEC)

11. Further Expanding Junior ROTC. In response to the Los Angeles riots, Colin Powell proposed and Congress approved in 1992 an expansion of the high school-based JROTC. Since then, 1,000 units have been added primarily in urban areas, bringing the total to nearly 2,600 units with 400,000 participants. The budget increased over that period from \$76 million to \$166 million. There is a waiting list of more than 450 schools that would like to have a JROTC unit. Because DOD does not plan any further expansion, these 450 schools on the waiting list will not likely be added. We could propose adding another 900 units over the next few years, to reach the authorized maximum of 3,500. Cost: about \$235 million. (NEC)

12. Training American Workers for Current and Future Skills Gaps. We should challenge the private sector to make specific commitments to train more American workers, which they pledged to do during the debate on H1-B visas. They could provide more college

scholarships for women and minorities, partner with community colleges to develop cutting-edge curricula, and encourage their employees to serve as telementors for middle school students to get them excited about math and science. In addition, we are working on: (1) a program to foster partnerships ("Regional Skills Alliances") between industry and training providers to train both employed and unemployed workers; (2) competitive grants to encourage companies to develop programs in which they subsidize the training of individuals who they then commit to hire; (3) extensions and/or expansions of some of the current training tax provisions (such as the lifelong learning tax credit and Section 127); and (4) a major informational/media campaign by the Departments of Education and Labor to inform all Americans about available training opportunities, financial aid, and job search assistance to allow them to develop the skills required for employment opportunities around the country. (NEC)

13. Making Job Training Universal. We are considering an initiative to make job training more universal. The first component of this initiative would be to seek a significant increase in dislocated worker funding -- about \$190 million -- so that we are on path to provide training to every dislocated worker who wants or needs it within five years. The second component would be to ensure that every unemployed person is eligible for core labor market services, e.g., job search assistance. The final component would be to take the steps necessary to ensure that every worker, regardless of where they live, would be able to have access to a One-Stop Career Center (where they can learn about job training, employment service activities, unemployment insurance, vocational rehabilitation, adult education, and other assistance.) (NEC)

14. Community Computing Centers. We have roughly 650 computing community centers, which empower low-income Americans in the Information Age by teaching them to type a cover letter and a resume, search for job vacancies on the Internet, or even start an Internet-related business. These efforts should be expanded. (NEC)

School safety -- see CRIME section

FFSERVICE (DPC)

1. AmeriCorps Seniors. In the wake of John Glenn's return to space, we have an opportunity to give other senior citizens a mission. We propose adding \$25 million to the current AmeriCorps program to create a senior corps of 10,000 volunteers to serve as tutors and mentors and in afterschool programs. We would build on a successful demonstration program that recruits seniors to serve 15-20 hours per week over a fixed period of time in schools and other community centers. In exchange, seniors would be eligible for small incentives, including awards to participate in senior learning programs. By inspiring responsibility among seniors, this initiative would provide an ideal complement to Social Security reform. John Glenn has expressed some interest in playing a role in AmeriCorps now that he's retired. We could invite him back to the State of the Union and place him in charge of a national effort to inspire seniors to serve. (Cost: \$25 million)

2. Expand AmeriCorps. We propose expanding the AmeriCorps program from its current level of 50,000 members per year to approximately 70,000 per year, with the goal of reaching 100,000 per year by the end of this Administration. These additional members could be targeted to serve primarily in after-school and summer school programs. (Cost: \$75 million)

3. Expand Service Component of Work-Study Program. Nearly 1 million students now receive

federal work-study funding. Despite our efforts, colleges and universities are required to use only 7 percent of their work-study money for students employed in community service. The higher education lobby would object, but we could propose a substantial increase in that requirement -- e.g., phasing it up to 25 percent over the next 3 years.

HEALTH CARE (DPC/NEC as specified below)

1. Long-Term Care Initiative. This package could include: (1) a tax credit of up to \$1,000 for people with three or more limitations in activities of daily living (ADL) or their caregivers, at a cost of about \$6 billion over 5 years; (2) a plan for OPM to offer federal employees a choice of high-quality private long-term care insurance policies at lower-than-market prices; (3) a family caregiver support program, costing about \$500 to \$750 million over five years, that would provide grants to states for "one-stop shops" to assist families who care for severely impaired elderly relatives through counseling, training, and respite services; and (4) a nursing home quality initiative, costing about \$500 to \$750 million over five years, that would include new enforcement provisions (e.g., increased penalties), new funds for surveys of repeat offenders and improved surveyor training, and perhaps a new commission to oversee HCFAs nursing home enforcement efforts and to investigate other kinds of facilities where health care is offered (e.g., assisted living facilities). (DPC/NEC)

2. Disability Proposals. A health-related disabilities package could include: (1) the Jeffords-Kennedy Work Incentives Improvement Act, which enables people with disabilities to go back to work by giving them an option to buy into Medicaid and Medicare, at a cost of about \$1.2 billion over 5 years; (2) a proposal, costing \$50 million over five years, to promote the deinstitutionalization of Medicaid beneficiaries by developing viable community-based care alternatives for people residing in nursing homes after a "date certain"; and (3) a proposal to make Medigap supplemental insurance more accessible to people with disabilities.

A separate work-related disabilities package could include: a tax credit of \$1,000 to \$5,000 for working people with disabilities to assist them in paying for the costs associated with employment, at a cost of about \$1 to 2 billion over 5 years; a new competitive grant program, developed by your disabilities task force, to increase the employment rate of adults with disabilities; and efforts to ensure that new technologies are designed so as to be accessible to people with disabilities (see technology section). (DPC/NEC)

3. Health Insurance Coverage Expansions. We could propose again, in somewhat new and improved forms: (1) an initiative to encourage small businesses to form purchasing cooperatives for health insurance, costing about \$50 to 100 million over 5 years; (2) proposals to improve outreach for childrens health insurance; and (3) a proposal, more limited than last years, to provide a Medicare buy-in for certain people ages 55 to 65, benefiting about 30,000 people and costing \$500 million over 5 years. (DPC/NEC)

4. Biomedical Research. We should again propose an increased investment in biomedical research -- perhaps (depending on how we treat tobacco money in the budget) between \$500 million and \$1 billion. (DPC)

5. Antibiotics (Super Bug) Initiative. Resistance to antibiotics is becoming a public health crisis, causing prolonged illnesses and even death. A new initiative, costing about \$25 million each year, could address this problem through: (1) a major outreach and

education campaign involving hospitals, health professionals, and managed care organizations; and (2) new research and surveillance efforts to understand where and why antibiotic resistance occurs and to develop effective responses. (DPC)

6. Bioterrorism Initiative. This initiative, costing \$100-300 million each year, would: (1) train epidemic intelligence officers who can coordinate with state health departments to identify and respond to attacks; (2) develop a mass casualty emergency response system that includes primary care, emergency transportation, and decontamination abilities; (3) create and maintain a stockpile of pharmaceuticals; and (4) improve research to develop new vaccines and antibiotics to be used in the event of attack. (DPC)

7. Protecting beneficiaries from HMO withdrawals from Medicare. This year, a number of HMOs pulled out of Medicare with only a few months notice, leaving 50,000 beneficiaries with no plan options in their areas. You announced that the Administration would develop legislation to prevent this behavior in the future, and we are currently reviewing the best approaches. (DPC)

8. Redesigning and increasing enrollment in Medicare's premium assistance program. Over 3 million low-income Medicare beneficiaries are eligible but do not receive Medicaid coverage of their Medicare premiums and cost sharing. Many more may not get enough assistance through a new provision that is supposed to help higher income beneficiaries. We are developing a range of proposals, costing up to \$500 million over five years, to use Social Security Offices to educate beneficiaries about this program, reduce administrative complexity for states, and give them incentives to engage in more aggressive outreach efforts. (DPC/NEC)

9. Prescription drug coverage for Medicare beneficiaries. We are considering a variety of proposals to address the lack of coverage for prescription drugs in Medicare, including a means-tested Medicaid option, an approach that would apply only in managed care, a traditional benefit for all beneficiaries, and an unsubsidized purchasing mechanism that uses Medicare's size as leverage for drug discounts for beneficiaries. If desirable, a proposal could be included in the budget or coordinated with the March release of the Medicare Commissions recommendations. The cost varies significantly depending on the proposal, ranging from \$1 to 20 billion a year. (DPC/NEC)

10. Disease Initiatives. We are working on several initiatives designed to combat particular diseases. These initiatives, which you could choose to do individually or in combination, are: (1) an asthma initiative, which will curb recent steep increases in asthma cases especially among young children, by disseminating new treatment guidelines to state and local public health programs and encouraging them to work with schools, child care organizations, businesses, and other community organizations; (2) a mental illness initiative that will accompany a Surgeon General's report on this subject (and perhaps a White House Conference recommended by Mrs. Gore) and will include public-private partnerships to improve access to prevention and treatment, reforms in federal health programs to improve delivery of mental health services, and funding increases in the mental health block grant; and (3) a heart disease initiative, which could include: a new partnership with aging networks to evaluate and improve nutrition; efforts to measure successful prevention approaches and replicate them nationwide; and the creation of a network of educators, churches, and community-based organizations to launch a nationwide awareness campaign. In each of these initiatives, the public health efforts described above would supplement NIH funding of research projects. The estimated cost of these initiatives is \$50 million for asthma, \$100 million for mental illness, and \$20 million for

heart disease. (DPC)

11. Food Safety. We are working on a food safety initiative that will highlight safety standards and enforcement. Included in this initiative are: (1) a repackaged and somewhat modified legislative proposal giving the FDA and USDA additional enforcement powers (e.g., mandatory recalls and civil penalties); (2) additional food-specific regulations and/or guidelines (e.g., for certain fruits and vegetables); and (3) more extensive adoption of our model codes for restaurants and food service workers. In addition, we will focus on improving coordination with state and local agencies that regulate food safety in order to develop a wholly integrated national inspection system. (DPC)

TOBACCO (DPC)

1. State Menu. Our best vehicle for enacting tobacco legislation next year will be a legislative waiver of federal Medicaid claims to the states expected \$200 billion settlement with the tobacco companies. We will seek bipartisan agreement on a menu of uses for the federal share of state money, with tobacco control and child care as our top priorities. We will try to use this measure as a vehicle for other key elements of our tobacco policy, such as FDA jurisdiction and warning labels.

2. Price Increase. One of the most difficult budget decisions will be whether to assume a tobacco tax increase in our budget request, and if so, what to do with the money. There are strong arguments on each side of the question whether to include a tobacco tax increase in our budget. If we do assume tobacco revenue, the candidates for it include: (1) assistance to tobacco farmers (about \$1 billion a year); (2) the long-term care tax credit (about \$1 billion a year); (3) other tax cuts, such as a child care / stay-at-home tax credit and/or a reduction in the marriage penalty; (4) NIH research; (5) public health programs; and (6) the Medicare trust fund and/or a new prescription drug benefit for Medicare beneficiaries.

FAMILIES AND CHILDREN (DPC/NEC as specified)

1. Expansion of the Child Care and Development Block Grant (old policy). We propose to expand the Child Care and Development Block Grant as we did in the FY 1999 Budget. The block grant is the primary federal child care subsidy program, helping low-income working families to pay for child care. Currently, between one and two million children are served by the program, leaving roughly nine million children who are eligible but unserved. This proposal would cost at least \$7.5 billion over five years. (DPC)

2. Tax Relief for Parents, Including Parents who Stay at Home. We are considering replacing our last years proposal to expand the Child and Dependent Care Tax Credit with a new proposal to benefit all parents, including those who stay home. This change will address the criticism that our child care initiative did little for stay-at-home parents. We are reviewing proposals to (1) double the child tax credit to \$1,000 per child for all children under the age of four, at a cost of about \$12 billion over five years; (2) increase the standard deduction for each child under the age of three by \$1,000, at a cost of about \$3 billion over five years; or (3) expand the Child and Dependent Care Tax Credit as we did last year and extend its benefits to parents with children below age three by assuming minimum child care expenses of \$150 each month, at a total cost of about \$21 billion over five years. Each of these proposals can be dialed up or down by adjusting either the age threshold or the dollar amount. (DPC/NEC)

3. Tax Credit for Businesses Providing Child Care. We could again propose to provide a

tax credit to businesses that provide child care services for their employees. The credit, which covers 25% of qualified costs but may not exceed \$150,000 per year, costs \$500 million over 5 years. To further build on this concept, we also propose to provide tax credits to businesses that provide on-site schools (see education section). (DPC/NEC)

4. Parent Paid Leave Plan. Many workers cannot afford to take unpaid leave following the birth or adoption of a child, even though they have access to an unpaid leave policy through FMLA or voluntary employer benefit plans. To address this problem, we are considering a proposal to provide eligible parents who already have access to unpaid leave with partial wage replacement for a set period of time. The cost of the program, which would be administered through the Unemployment Insurance System, varies according to the selected eligibility criteria. If we choose, for example, to give \$200 per week for four weeks to new parents with median income (about \$37,000) or below, the cost will be about \$875 million for FY 2000 (including start-up and administrative expenses). (DPC)

5. FMLA Expansion to Businesses with 25 Workers (old but unarticulated policy). Under current law, workers are eligible for FMLA coverage only if they work at a business with 50 or more employees and if they have worked at least twelve months and 1,250 hours for the employer. In your last State of the Union, you called for covering more workers under the FMLA, but did not fully articulate how you would do so. We could now advance a specific proposal to lower the FMLA threshold to 25 or more workers, which would expand coverage for up to ten million more American workers. (DPC/NEC)

6. Parent Education and Support Fund. We are considering proposals to create a competitive grant program administered by HHS to fund parent education and support programs, including home visitation programs and "second chance maternity homes" to support teen mothers and teach parenting skills. This fund could cost about \$500 million over five years. (DPC)

7. Adoption Registry. We are working on plans to create an Internet-based adoption registry of foster care children waiting to be adopted, so that prospective adoptive parents can learn about these waiting children. Funding this registry would require very small increase in HHS's Adoption Opportunities Grant Program. (DPC)

COMMUNITY EMPOWERMENT (DPC/NEC for all)

1. CDFI Tax Credit. We are looking at a proposal to extend tax incentives to encourage investment in CDFIs, which would leverage additional private investment in distressed areas and stimulate the economic revitalization of those areas. Under the proposal, \$100 million in non-refundable tax credits would be made available to the CDFI Fund to allocate among equity investors in qualified CDFIs using a competitive process.

2. Microcredit Initiative. We are working to identify means to increase support for microenterprise finance, both domestically and internationally. We are examining whether to build on Senators Kennedy's and Domenici's PRIME legislation which would provide technical assistance to microenterprise. We are also looking at increased funding for CDFI initiatives specifically targeted to microenterprise. On the international side, we are looking at whether we can increase microenterprise funding through USAID or MDBs, especially to countries hardest hit by the financial crisis.

3. Clean Water, Parks, and Communities Bonds. We are examining three proposals to encourage "green" infrastructure projects. The first model uses the same financing

mechanism as your school construction proposal for a menu of projects: protecting and improving water quality; cleanup of contaminated sediments; waterfront reclamation and revitalization; stormwater runoff control; purchasing of green spaces to prevent sprawl; park enhancements and revitalization, and brownfields cleanup. The second model, which provides a smaller incentive than the first model, would create new tax-exempt bond authority for these state and local areas to invest in clean water, parks, and communities. The advantage of this model is that it builds on the current system of bond finance. The final model would allocate tax credits (like the Low-Income Housing Tax Credit) to states and local areas to provide to the developers of these green infrastructure projects.

4. Employment Tax Credits. The Work Opportunity Tax Credit and the Welfare-To-Work Tax Credit encourage employers to hire and retain members of certain economically disadvantaged targeted groups. Both credits will expire on June 30, 1999. Under this proposal the two credits would be made permanent.

5. Re-Develop 10,000 Abandoned Buildings. Abandoned buildings are a symbol of urban blight, and an action plan to turn this around will be a powerful signal of change. We are examining different proposals to help re-develop 10,000 abandoned buildings, combining several existing programs or providing grants or tax incentives to spur private-sector redevelopment of these sites.

6. Low-Income Housing Tax Credit. Last year, you proposed a 40-percent expansion of the Low-Income Housing Tax Credit to spur the private sector to develop more affordable rental housing for low-income Americans. We recommend that you again ask Congress to take this action, which would restore the value of the credit to its 1986 level and help develop an additional 150,000-180,000 affordable housing units over the next five years. This proposal would cost \$1.6 billion over five years.

7. Homeownership Tax Credit. We are examining two kinds of tax credits to promote homeownership among lower-income families, who generally do not benefit from the mortgage interest deduction. The first proposal would use the model of the Low-Income Housing Tax Credit to create a Low-Income Homeownership Tax Credit. Under this proposal, low-income families would receive a low- or zero-interest second mortgage, which would reduce their upfront costs (e.g., downpayment and closing costs) and investors would receive tax credits in return. The second proposal is a \$5,000 tax credit for first-time homebuyers in Empowerment Zones or Enterprise Communities.

8. Housing for the Elderly Initiative. This proposal is designed to improve housing for elderly people and thereby provide an alternative to nursing home care. In addition to providing capital to improve and modify such housing to meet the needs of elderly residents, the initiative would provide housing vouchers for low income elderly who live in housing developed through the Low-Income Housing Tax Credit. Because the tax credit helps subsidize rent, this proposal would allow us to leverage our resources and provide more vouchers to the poor elderly.

9. Incremental Tenant-based Section 8 Vouchers. To build on our success in this past years budget, we recommend seeking an additional 50,000 welfare-to-work housing vouchers and another 25,000 vouchers to meet the needs of the homeless, including elderly homeless and homeless veterans.

10. Homelessness. We are working on a three-part proposal that would: (1) assist the

approximately 250,000 homeless veterans by increasing residential alternatives, community-based contracted care, job preparation activities, stand down activities (community-sponsored events that conduct one-stop service delivery programs for homeless veterans), the distribution of clothing, and long-term housing; (2) allow VA to sell surplus property with 10 percent of proceeds going to homeless veterans; and (3) start a demonstration project targeted to the chronically homeless to test the most promising models for moving the chronically homeless to self-sufficiency using a combination of permanent housing and links to mainstream services. Cost: \$105 million -- \$60 million for VA and \$45 million for HUD demonstration project.

RURAL/AGRICULTURE (NEC/DPC as specified)

1. Strengthening the Safety Net. To help farmers suffering from the depressed export markets and natural disasters, we are considering various reforms of the crop insurance program and closing gaps in the emergency loan program. We are paying special attention to programs that will help small family farms. (NEC)

2. Bringing the knowledge of land grant colleges to every rural American: The USDA spends \$1.6 billion on agricultural research, much of it at Americas land grant colleges and universities. The government could provide grants to ensure that this information is available on the Internet and is well-organized --so that all rural Americans can easily access information on topics such as crops, livestock, rural development, natural resource conservation, and food safety. (NEC)

3. Emergency Medical Services in Rural Areas. The presence of viable emergency systems is critical for residents in rural areas, because of the high rates of injury associated with jobs in these areas and the long distances to health providers. This proposal, costing about \$50 million, would provide funds to States and local communities to improve access to 911 services or alternative emergency systems. It also would fund programs to help rural communities train local citizens in CPR and first responder techniques and to recruit and retain emergency personnel. (DPC)

4. Rural Transportation. Transportation is crucial to the efforts of residents and businesses in rural America to improve the livability of their communities and expand their economic activities. We are developing a rural transportation initiative that will help those who live and work in rural areas by improving the ability of farms and businesses to obtain materials and move their products to markets, and by making it easier for small communities to attract additional commercial jet air service. (NEC/DPC)

TECHNOLOGY (NEC)

1. Curbcuts on the Information Highway. We are looking at several options that would make information technology usable by people with disabilities in a manner that improves their lives: (1) investing in R&D (e.g., text-to-speech, automatic captioning, speech recognition); (2) giving disabilities groups a seat at the table as the standards for new technologies are developed; (3) making the government a model "user" of accessible technology; and (4) explore opportunities for greater deployment. In addition, the tax credit for work-related impairment expenses for people with disabilities could be used to expand the market for assistive technology.

2. A Digital Library for Science, Math and Engineering. We need to get every young student and undergraduate excited about math, science and engineering. We are exploring

creating a "digital library," which would contain lectures from Nobel Prize laureates, have an ability to track and replicate cutting-edge scientific experiments, and make it easier for students and teachers to locate the best instructional material on the Internet.

3. Information Technology Research Initiative. Increasing our investment in information technology research, which is currently about \$1 billion of the federal research budget, could lead to the following breakthroughs: supercomputers that can more rapidly perform important functions, such as designing life-saving drugs and predicting severe weather systems; wireless networks that can bring telemedicine and distance learning to rural America; a device of the size of a paper that could monitor the vital signs of a senior citizen, send a "911" message in the event of a medical emergency, and provide an exact location using global positioning technology; new software tools that can help us cope with "information overload" by discovering patterns in huge quantities of data; and intelligent spacecraft that can explore the Solar System. Options have been developed at roughly \$100, \$200 and \$400 million in FY2000; and \$1, \$2 and \$3 billion over 5 years.

4. 21st Century Research Fund. One initiative that you announced in last years budget that we think is important to continue is the 21st Century Research Fund -- which provided across-the-board support for civilian R&D at agencies such as NIH, NSF, and Energy. For FY99, Congress provided a 10 percent increase for basic research, so this is an area where bipartisan cooperation is possible. Currently, the FY2000 budget reflects only a 2% increase in civilian research.

CRIME (DPC)

1. Crime Bill II. The 1994 Crime Act will expire at the end of the FY 2000 budget cycle, guaranteeing that the next Congress will consider major crime legislation. We recommend that you get a jump on this debate by using your State of the Union and FY 2000 budget to challenge Congress to pass a new crime bill that builds on the core elements of the successful 1994 Act -- more police, smarter punishment, and more prevention. Most of the money required is already built into future budgets; continuation of the COPS program, however, will require new funds totaling about \$1 billion. We believe that a new Crime Act should include the following elements:

*Community-Oriented Policing and Prosecution Services (COPPS). Your pledge to help fund 100,000 more police is likely to be fulfilled before the end of next summer. A new COPPS initiative (note the extra "P" for "Prosecution"), costing about \$1.4 billion in the first year, could include funds to: (1) hire, redeploy, and retain an estimated 7,500 more police each year; (2) provide modern technology and equipment and support training in modern policing techniques, with a special emphasis on "hot spots" technology; (3) hire, train, and equip prosecutors to join local police in fighting crime on a more community-based, pro-active basis; and (4) support partnerships between law enforcement and community-based groups to prevent crime in their areas.

*A new focus on probation supervision and coerced abstinence. The punishment title of the crime bill now focuses largely on prison construction; we recommend shifting the focus to a new "Certainty of Punishment" initiative that will support the expanded use of probation supervision and of drug testing and treatment.

*Gun initiatives. A new crime bill should include your longstanding firearms priorities -- juvenile Brady, Brady II, federal CAP legislation and child safety locks. It also could include new proposals to: (1) close the loophole that exempts many firearms sales at gun

shows and flea markets from Brady background checks; (2) expand the Youth Crime Gun Interdiction Initiative (YCGII) -- to trace all crime guns and investigate gun traffickers -- to an additional 20-40 cities; and (3) assemble gun strike forces -- teams of federal prosecutors and ATF agents, acting with local law enforcement -- to target cities with high levels of gun violence and crack down on gun traffickers.

*Values-based crime prevention initiative. In addition to other crime bill prevention programs, we could invest in promoting values-based crime and violence prevention efforts, such as those of Rev. Eugene Rivers. Funds from this program would go to comprehensive prevention programs run by faith-based and other institutions seeking to instill and reinforce common sense values in troubled youth.

2. Safe, Disciplined, and Drug-Free Schools. At the White House Conference on School Safety, you announced that you would overhaul and strengthen the Safe and Drug-Free Schools Program. Under this proposed reform, funds will be appropriately targeted to schools with serious drug and crime problems, and schools will have to adopt rigorous, comprehensive school safety plans that include: tough but fair discipline policies, such as zero tolerance for guns and drugs; safe passage to and from schools; effective drug and violence policies and programs; annual school safety and drug use report cards; links to after school programs; efforts to involve parents; and crisis management plans. We also could include in this package (1) funds for states that adopt a policy of drug testing first-time applicants for drivers licenses and (2) funds for school districts that adopt a policy of drug testing middle and high school students with parental consent. We believe that these reforms will require up to \$450 million in new funding in FY 2000.

3. Parity for Substance Abuse Treatment. Appropriate substance abuse treatment remains unavailable to nearly half of the people who need it. To help fill this treatment gap, we could propose legislation to encourage parity between substance abuse treatment and other medical benefits. Similar to the Mental Health Parity Act signed into law in 1996, a current draft of this legislation would prohibit health care plans that provide a substance abuse benefit from setting annual or lifetime dollar limits on this benefit at a lower level than those for other medical and surgical benefits. At the same time, we would have to ensure that federal health programs provide parity between substance abuse treatment and other medical benefits; we are still exploring the cost of any necessary reforms to these programs.

4. Binge Drinking. We are working on a number of proposals regarding alcohol abuse, including (1) promoting a voluntary code for alcohol advertisements directed toward minors; (2) banning alcohol billboards near schools; (3) discouraging alcohol advertising on youth-oriented web sites; (4) and funding educational efforts about the dangers of alcohol consumption.

WELFARE REFORM, CHILD SUPPORT ENFORCEMENT, AND CHILD WELFARE (DPC)

1. Reauthorize the Welfare-to-Work Program. Congress authorized the Welfare-to-Work Program for only two years; if we wish to continue our current investment in the hardest-to-employ, we will have to propose a reauthorization of about \$1.5 billion annually. Within this funding level, we propose several set-asides, totaling \$500 million, for the following specific purposes: (1) work-based English-language literacy projects for immigrants and others; (2) work-based substance abuse testing and treatment programs; (3) employment services for welfare recipients with disabilities; and (4) a work-based program to promote responsible fatherhood, including efforts to increase low-income fathers

employment and earnings and ensure that they provide financial and other support to their children.

2. Child Support. One initiative, costing just a few million dollars each year, would increase the prosecution of egregious child support violators by establishing multi-agency teams, working with state and local law enforcement, to identify, analyze, and investigate cases for prosecution. A pilot project of this kind is already under way in five states; this proposal would put these units in place all across the nation within the next several years. A second initiative would seek legislation to exclude doctors and other health care providers who are delinquent in child support from the Medicare program or from programs offering health professional loans.

3. Children "Aging Out" of Foster Care. Each year, nearly 20,000 18-year-olds "age out" of the public child welfare system. Federal financial support for these young people ends just at the time they are making the critical transition to adulthood. Areas for increased investment for these young adults include: (1) expanding the independent living program, which provides services to foster care children in this age group; (2) expanding the transitional living program, a competitive grant program that funds community-based organizations that provide services to this population, including housing support; and (3) giving states the option of using Federal Medicaid dollars to provide health care coverage for this population. (Cost: roughly \$150 million each year)

Welfare-to-Work Housing Vouchers and Tax Credit -- see COMMUNITY EMPOWERMENT Section

CIVIL RIGHTS AND WOMENS RIGHTS (DPC)

1. Equal Pay. We are working on a program to be run by the EEOC and DOL to increase outreach to businesses and employees about equal pay requirements, provide technical assistance to businesses seeking to comply, improve training for EEOC employees, and expand enforcement capabilities. In addition, the program will fund research on the nature and extent of wage discrimination, as well as a new Women in Non-Traditional Occupations Initiative designed to improve access of women into occupations such as construction and high technology. Cost: about \$20 million for EEOC and \$10 million for DOL.

2. Abortion Violence. We are working on a comprehensive initiative to address violence against providers of reproductive health services. This initiative may include: (1) a National Task Force established by the Department of Justice that will conduct investigations of abortion violence, collect and collate information related to clinic violence, and provide training to federal, state, and local law enforcement personnel on how to address this problem; (2) special security measures, including stepped-up U.S. Marshal support, at clinics identified to be at risk of violence; and (3) federal guarantees of loans taken out by clinics that must rebuild after they have been attacked. Cost: Unknown at this time.

TRANSPORTATION (NEC/DPC as specified)

1. Reauthorization of the FAA, with Focus on Modernization and Competition. A blue-ribbon bi-partisan panel concluded last year that the air transportation system faces "gridlock" within a decade without sweeping changes. We are considering various policy options to incorporate into the FAA reauthorization that you will propose in 1999 (it is a must pass this year) that will: (1) improve the efficiency and capacity of the nation's aviation system, and (2) enhance competition and service to rural areas. Some of the components of

this initiative would include: centralizing the air traffic control services (ATS) in a performance-based organization (recommended by the bi-partisan panel); financing ATS for commercial aviation through cost-based user fees (supported by the major airlines); increasing Passenger Facility Charges (PFCs) to finance airport expansion nationwide (supported by state and local governments); modifying federal rules on how airports can use PFCs and other funds to encourage new airline entrants; and enhancing service to underserved areas.

We are also looking at ways to further competition in international aviation. The Administration has extended the benefits of competition by negotiating dozens of bilateral open-skies agreements. We could press our trading partners for World Wide Open Skies and explore lifting other restrictions on foreign aviation investment and operation on a reciprocal basis. (NEC)

2. Auto Safety. We are making headway on auto safety. Last year, the number and rate of auto fatalities declined. However, we still have a long way to go -- more than 40,000 Americans die in auto accidents each year, at a direct cost of \$150 billion. The keys are seatbelts (more) and alcohol (less). We are working on a comprehensive initiative that would include: (1) meeting the President's goal of 85 percent seatbelt compliance by the year 2000, which would save 4,000 lives and nearly \$7 billion; (2) promoting education initiatives like the Buckle-Up America campaign; (3) enforcing the TEA-21 requirement that states lower the legal blood alcohol content level from .10 to .08; and (4) pushing a new Administration initiative on children's safety that will target auto accidents, among other problems, by promoting the use of child safety seats, booster seats (for children ages 4-8), and bicycle helmets. (NEC/DPC)

3. Transportation Needs of the Aged. With the number of Americans over 65 expected to grow by half by 2020, we should begin addressing the need to ensure their continued mobility, independence and safety in their later years. We are only beginning to look at this issue with DOT, which plans to hold six town meetings soon with senior citizens, medical experts, transportation safety specialists, and others to discuss the problems and challenges and identify best practices. The U.S. will host an international conference on this topic next year, in connection with the United Nations Year of Older Persons. This may be combined with the long-term care and the housing for the elderly initiatives. (NEC)

4. "Smart Growth" and Sustainable Development. One of the biggest challenges facing Americas communities is that "sprawl" development is threatening the long-term economic vitality and quality of life in Americas urban, suburban and rural areas. Although land use decisions should remain the domain of state and local government, the federal government can be an effective partner. First, we will continue investing in sustainable transportation. TEA-21 authorizes a record \$41 billion over the next six years for transit; increases tax-free transit benefits; and expands communities ability to transfer funds from highway construction to transit, bicycle and pedestrian programs, telecommuting and other forms of transportation that reduce congestion and pollution. Second, we will provide incentives to make it easier for communities to pursue smart growth policies, by exploring ways cities can capture the air quality benefits of sustainable development and by supporting a private sector initiative that would encourage mortgage lenders to consider the savings from "location efficiency" in making mortgage determinations for homebuyers. (NEC)

ENERGY (NEC)

1. Electricity Restructuring. You could call on Congress to enact legislation, to make the electricity industry more competitive and to provide more choices for industrial, commercial and residential customers. The Administrations Comprehensive Electricity Competition Act will save consumers \$20 billion a year. Retail competition will not only improve efficiency, but also reduce the two-thirds waste of energy currently associated with fossil-fuel generation of electricity, thereby cutting greenhouse gas emissions. Prominent Republicans have included electricity restructuring on their list of priorities for 1999.

2. Distributed Generation ("Micropower"). To increase the consumer savings and environmental benefits from electricity competition, the Administration will pursue legislation to eliminate obstacles to the use of small, clean efficient generation technologies (e.g., fuel cells and photovoltaics) that can be installed at or near the electricity users site. Moving from large, central-station generation of electricity to distributed generation by small, clean sources is analogous to the move from mainframe computers to personal computers.

PENSIONS (NEC)

1. Expanded Private Pension Plan Coverage: Last year, you announced several initiatives to expand pension plan coverage which were not enacted, but which we continue to believe are important and have substantial support on the Hill. We should again call for legislation that: authorizes a simplified plan for small businesses that combines the best features of a defined benefit and defined contribution plan (SMART), costing \$313 million over five years; provides a three-year tax credit to encourage small businesses to set up retirement programs, costing \$508 million over five years; and authorizes payroll deductions for IRAs. We are exploring ways to expand coverage for moderate and lower-income workers. Consideration is also being given to ways of enabling multiple small businesses to pool together for pension plan administration.

2. Womens Retirement Security: To underscore the importance of pensions for womens retirement security, you would call for legislation enacting the two initiatives you announced in late October -- namely, that time taken under FMLA should count toward retirement plan vesting requirements and mandating that employer plans offer an option that pays less while the retired employee is living but pays a survivor benefit equal to at least 75 percent of the benefit the couple received while both were alive.

3. Pension Portability: You could renew your call for reducing vesting requirements from five years to three years for employer matching contributions to 401(k) and other plans to reflect an increasingly mobile workforce, and more workers moving in and out of the workforce over a lifetime. We are also exploring various options that would increase pension portability and facilitate the movement of retirement savings between plans, where this can be done without encouraging "leakage" or loss of worker protections -- e.g., providing that federal employees can roll over retirement savings from private sector qualified plans into the federal Thrift Savings Plan.

4. Expand Pension Right to Know Provisions: You could call for a pension right to know package that provides for both workers and their spouses general information relating to retirement needs and their benefits under employer retirement plans. In addition, an employees spouse should have the same rights to get information as the employee, before waiving the statutorily provided survivor protection. You should call for a Pension Right to Know package that provides information for both workers and their spouses. We are also

working on an employee education program that would provide employees with the tools they need to work with their employers to provide pension plans, and are thinking about how to encourage courses in high schools on the importance of savings and other general investment education (which can be combined with the Consumer Literacy and Education campaign described below). Consideration is also being given to a savings stamp book program in the schools (sell savings stamps in very small amounts; when the book is full, turn it in for a U.S. savings bond) to help educate the young about how to reach savings goals.

5. Increase Retirement Security: To promote security, we are continuing to work on the pension audit bill, changes to the multi employer (collectively bargained) plan rules, and expansion of PBGCs missing participant program.

FINANCIAL SERVICES (NEC/DPC as specified)

1. Consumer Financial Literacy and Education. We are currently developing a set of proposals to promote consumer financial awareness and enhance consumer credit literacy, ranging from a public awareness campaign to establishing an educational clearinghouse to disseminate quality curricula to high school students. We are also working on a study to identify what the biggest problems are with how Americans use consumer credit; and what basic banking services and steps they can take to help themselves (this may be very important if bankruptcy reform is a live item next year). Part of our focus is on reaching out to low-income households, building on (and expanding) two existing government programs -- Treasurys Electronic Funds Transfer program that was a first step in helping the "unbanked" enter into electronic commerce and a USDA extension program that is providing some (limited) services to rural low-income families. This proposal would cost \$5-10 million. (NEC)

2. Consumer Financial Bill of Rights. In order to respond to the outrage consumers feel about ATM surcharges, without supporting economically questionable regulation of ATM fees, we are considering a proposal either for the government or for financial institutions voluntarily to make publicly available a list of basic banking services and fees on an individual or geographic basis to be published periodically over the Internet. The services profiled would include, but would not be limited to, charges for access to ATMs. We are also considering the adequacy of current credit card disclosure requirements (again, relevant to bankruptcy reform) and other areas where information about financial service arrangements would be helpful to consumers. This would cost \$3-5 million. (NEC/DPC)

January 26, 1998

MEMORANDUM TO LAURA EMMETT

From:Megan Moloney, Director of Radio Services
Re:Confirmed Interviews for Elena Kagan

The following are confirmed interviews for Elena to do regarding SOTU. Attached is a briefing packet for her. Please let me know if you have any questions or problems with the stations. Thanks.

Tuesday, January 27

Station:Alabama Radio Network
Time:10:00 Am
Contact:Carol Bennett
Number:202-225-7134

Station:WCTC-The Ted Efaw Show
Time:5:40 PM
Contact:Ted Efaw
Number:732-249-2600 x222
Notes:Big supporter, (I need to get a better # to you and will tomorrow)

Wednesday, January 28

Station:KJFF, Festus, MO
Time:10:00 AM
Contact:Jim Podesva
Number:314-937-7642

State of the Union Radio Rollout

Summary of Radio Outreach

January 23, 1998:

Network Radio Roundtable with Domestic Policy Advisor Bruce Reed

Attended by: ABC Radio, American Urban Radio Network, AP Radio, Bloomberg Radio, CNN Radio, Mutual/NBC Radio, MetroSource, SRN/Standard News, USA Radio Network, Voice of America

Cabinet Radio Assignments:

Sec. Daley-Los Angeles, Monterey-Salinas, Minneapolis-St. Paul, Rochester, "The Ronn Owens Show" - KGO/KABC

Sec. Riley-LaCrosse-Eau Claire, Champaign-Springfield, Las Vegas, Reno

Sec. Herman -Montgomery, Anniston, Mobile, Pensacola, Philadelphia, Erie

Sec. Pea-Denver, Grand Junction-Montrose, Albany-Troy

Sec. Shalala-Kansas City, Quincy-Hannibal-Keokuk, "Newsmakers," KCRW- Los Angeles -- "Which Way LA"

Sec. Slater-Little Rock-PineBluff, Jonesboro, Syracuse

Adm. Alvarez-San Antonio, Hartford-New Haven

Sec. Glickman-Des Moines-Ames, Rochester-Mason City-Austin, Seattle, WBRY-Woodbury, TN

Sec. Reno-Miami-Fort Lauderdale

Sec. Cuomo-Orlando, New York City, Binghampton, Baltimore

Gen. McCaffrey-Raleigh-Durham

Adm. Browner-Cincinnati

Amb. Barshefsky-Boston, Springfield-Holyoke

Dir. Yellen-Burlington-Plattsburgh

January 26-28, 1998

White House Senior Staff Radio Interviews

Monday:

Mickey Ibarra

WTAM-AM, Cleveland, Ohio

WABE-AM, Atlanta, GA

WJNO-AM, West Palm Beach, FL

Tuesday:

Maria Echaveste

Metro Networks - San Jose

Metro Networks - Miami

Metro Networks - NYC

Radio Bilingue (UNCONFIRMED)

Audrey Haynes
WBT-AM, Charlotte
KFRU-AM, Columbia, MO
WBSM-AM, Mass.

Thurgood Marshall, Jr.
KINK, Portland, OR
WVLK-AM, Lexington, KY

Elena Kagan
Alabama Radio Network

Craig Smith
KOMO-AM, Seattle

Mickey Ibarra
KYMN, Northfield, MN -- "Tuesday Talk Live"
WOKQ-AM, Dover, NH
Newsmakers (nationally syndicated)

Elena Kagan
WCTC-The Ted Efav Show

Fred Duval
KMPH-AM, Fresno, CA

Mike McCurry
WBBM-AM, Chicago

Wednesday:

Janet Murgia
KIKK - Houston, TX
WSYR, Syracuse, NY

Fred Duval
WBGH-AM, Bowling Green, KY

Thurgood Marshall, Jr.
KCRG, Cedar Rapids, IA

Elena Kagan
KJFF, Festus, MO

Craig Smith
KDCR, Sioux Center, IA

Sylvia Mathews
KTRS-AM, St. Louis - "The John Carney Show"

Lynn Cutler

KCNZ, Cedar Falls, IA

Maria Echaveste
KMND, Midland, TX

Ann Lewis
KGO/KABC - "The Ronn Owens Show"

Dr. Jack Gibbons
WVON-AM, Chicago

November 25, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
GENE SPERLING
ELENA KAGAN

SUBJECT: State of the Union Ideas

As you requested, this memorandum provides a brief description of new ideas we are seriously considering for the State of the Union. Most of these ideas involve increased spending, and you will have to make choices among them as you consider the FY 99 budget. Options relating to social security and tax reform are not included in this memo.

Education

1. Class size / 100,000 teachers: We are working with the Vice President's office and others on an ambitious initiative to reduce class sizes in the early grades by providing money to hire up to 100,000 new teachers, perhaps paid for by reducing the federal work force by another 100,000 positions. We estimate that 100,000 new teachers in grades 1-3 would reduce average class size from roughly 21 to roughly 18. The initiative would have three main elements: 1) grants to help states or communities hire new teachers (as in the COPS program, these grants would be time-limited (3-4 years) and the federal share would be 50-75%); 2) funds for teacher training, with a special emphasis on reading; and 3) provisions to ensure accountability, such as requiring testing of new teachers and/or ensuring the removal of bad teachers from the classroom. A serious proposal along these lines would cost \$5-10 billion over five years, depending on the size of the federal match and the target date for reaching 100,000. We also would need to accompany the proposal with a school construction initiative (see below).

2. Education Opportunity Zones: As we outlined in an earlier memo on policy proposals for the race initiative, we are working with the Education Department on a plan that would reward 10-15 poor inner city and rural school districts for agreeing to adopt a school reform agenda that includes: ending social promotions, removing bad teachers, reconstituting failing schools, and adopting district-wide choice and/or public school vouchers. Our goal is to give school districts incentives to hold students, teachers, and schools accountable, in essentially the way Chicago has done. In our working proposal, each urban grant would be worth \$10-25 million and each rural grant would be worth up to \$2 million, for a total request in FY99 of \$320 million.

3. National Public School Choice Law: We are exploring the possibility of proposing legislation to require that states and communities allow public school choice as a condition of receiving federal education funding. Together with a strong endorsement of bipartisan charter school legislation (bound to pass next year), this measure will show that we firmly support choice and competition. We are also looking into the concept of a parents' right-to-know law that would require states and communities to make key

information on school performance available, so that parents can make informed choices.

4. University-School Partnerships: As we also outlined in our earlier memo on the race initiative, we are working on a grant program to promote strong partnerships between colleges and high-poverty middle and high schools, with the goal of enabling more youth to go on to college. This initiative would encourage colleges to adopt the Eugene Lang model for helping disadvantaged youngsters. Colleges would encourage students to take demanding courses, while providing academic enrichment and intensive mentoring, tutoring, and other support services. The students would receive special certificates for participating in the program, somewhat along the lines of Chaka Fatahs proposal. The Department of Education has requested \$200 million for FY 99 for this initiative.

5. Campaign on Access to Higher Education: We are preparing to conduct an intensive publicity campaign on the affordability of higher education. The goal of the campaign would be to make every family aware that higher education is now universally accessible, as well as to reiterate that higher education is the key to higher earnings.

6. School Construction: We will need to re-propose a school construction initiative this year. We are currently considering the appropriate size and duration of this initiative, as well as the possibility of structuring this initiative as a tax credit.

7. Teacher Training for Technology: We are currently weighing several options on training teachers to use educational technology. These include (1) expanding various innovation grants to ensure that within four years, all new teachers will be ready to use educational technology, or (2) using the Technology Literacy Challenge Fund to train and certify at least one "master teacher" in every school, who can then train other teachers in the use of educational technology.

8. Hispanic Education Dropout Plan: We have developed a plan to improve educational opportunities for Hispanic Americans (or limited English proficient students generally), with the goal of decreasing the current disparity in dropout rates. The draft plan includes a number of administrative actions, as well as targeted investments of roughly \$100 million to programs for migrant, adult, and bilingual education.

9. "Learning on Demand": We are developing an initiative, related to some of Governor Romers ideas, to encourage the use of technology (e.g., the internet, CD-ROM, interactive TV) for lifelong learning. The initiative will begin the process of giving all Americans "anytime, anywhere" access to affordable and high-quality learning opportunities. The initiative is still in the developmental stage, and at this time we recommend only a small investment.

Child Care

1. Affordability: We are developing a proposal that will help working families afford child care by (1) increasing funding for federal child care subsidies through the Child Care and Development Block Grant, and (2) changing the Child and Dependent Care Tax Credit by raising the percentage of child care expenses for which taxpayers of certain income levels may take a credit. On the subsidy side, every additional \$100 million in the block grant will pay child care costs for at least 35,000 more children with incomes below 200 percent of poverty. On the tax side, we are considering raising the maximum credit rate to 50 percent for taxpayers with adjusted gross income (AGI) of less than \$30,000 (from a

current high of 30 percent for taxpayers with AGI of less than \$10,000), and adjusting the income slide accordingly.

2. Safety and Quality: We are also considering targeted investments to improve the safety and quality of care. Our current proposal adds funding to the scholarship program for child care providers that you announced at the child care conference (which was very well received); provides resources for states to improve their enforcement of health and safety standards; and funds efforts to educate parents on quality child care.

3. Early Childhood Learning and Afterschool Programs: Our current proposal also expands early learning opportunities by increasing investment in Early Head Start and creating a new 0-5 Early Education Fund. The new fund will provide grants for innovative early learning programs for both working and stay-at-home parents. We are also considering ways of expanding and streamlining afterschool programs.

4. Helping Parents Stay Home: To support parents who wish to stay at home with their children, we are working on ways to expand the FMLA -- to six months instead of 12 weeks and to smaller-sized employers. We are also looking at a variety of ways to provide financial assistance, whether through a modified version of the Child and Dependent Care Tax Credit or through paid family leave administered under the unemployment insurance system. The cost of these financial proposals, however, may be prohibitive.

Health

1. Consumer Protection Legislation: We should reiterate our support for three pieces of health care consumer protection legislation: (1) the Quality Commissions Consumer Bill of Rights, which has strong public and elite support and arguably is more moderate than a bill in the House that already has attracted over 85 Republicans; (2) our genetic anti-discrimination legislation, which has attracted bipartisan support on both sides of the Hill as a way to protect Americans from the misuse of new advances in genetics; and (3) privacy protection legislation, which would establish strong federal standards to ensure the confidentiality of medical records. Although these consumer protections would benefit the entire population, women's health advocates are especially supportive of them, because the Consumer Bill of Rights would ensure direct access to OB/GYNs and our genetic anti-discrimination legislation would protect women who undergo new tests for the breast cancer gene.

2. Medicare Reform and Program Improvements: To build on the Medicare reforms in the balanced budget agreement, we are considering two reform initiatives: additional anti-fraud initiatives (perhaps providing \$2-3 billion in savings over five years) and an income related premium (providing another \$7-8 billion in savings assuming it kicks in at an income around \$50,000). We are also considering a number of Medicare improvements to which we could apply the above savings: (1) a Medicare (or COBRA) buy-in for pre-65 year olds (or some targeted subset of this age group), the cost of which would depend on whether we decide to subsidize this benefit; (2) Medicare coverage of cancer clinical trials, which could substantially increase investment in the treatment and cure of cancer, including prostate cancer; and (3) a new mechanism to provide Medicare beneficiaries with information about private long-term care insurance that meets appropriate standards.

3. Doubling the NIH Research Budget with Proceeds from Tobacco Legislation: We (along with the Republicans) are considering a proposal to double the NIH budget, which would cost about \$20 billion over five years. Such an investment could lead to breakthroughs in

research that would greatly improve our ability to prevent and treat diseases like diabetes and cancer -- and substantially lessen the costs associated with these diseases. Because the discretionary caps are so tight, the only realistic way to pay for such an initiative is through dedicated savings from the tobacco agreement. This link between tobacco legislation and health research should resonate strongly with the public.

4. Other Coverage Options -- Childrens Health, Workers In-Between Jobs, Voluntary Purchasing Cooperatives: We are working on a public/private outreach effort to ensure that every child eligible for health insurance under Medicaid or our new program actually gets covered. The public side of this effort could include proposals to: give bonuses for enrolling more children in Medicaid; expand the kinds of places where children can enroll; and simplify eligibility processes. In addition, we are considering whether to propose a demonstration of our old policy to provide coverage to workers who are in-between jobs. Finally, we are continuing to pursue proposals relating to voluntary purchasing cooperatives, as a way to help small business gain access to and afford health insurance coverage.

5. Racial Disparities in Health Care: We are working on a proposal to address racial disparities in six carefully selected areas of health care: infant mortality, breast and cervical cancer, heart disease and stroke, diabetes, AIDS, and immunization. This proposal will include nationwide actions to reduce these disparities, as well as focused pilot projects in thirty communities (say, a project on diabetes on an Indian reservation or a project on AIDS in an inner city). The stated aim of the proposal will be to eliminate racial disparities in these six areas by 2010.

Crime

1. Community Prosecutors: We are working on a proposal, costing up to \$100 million, to provide grants to prosecutors for innovative, community-based prosecution efforts. A number of jurisdictions already have embraced such efforts; for example, community prosecution is an essential component of Bostons juvenile crime strategy. These jurisdictions have found that a "problem-oriented" (rather than incident-based) approach to prosecuting, using a wide variety of enforcement methods and attending to the concerns of victims and witnesses, can pay real dividends. A grant program could spread these innovative programs across the country.

2. Juvenile Crime Initiative: Although we got funds for much of our youth violence strategy in last years appropriations bills, we should continue to press for the passage of juvenile crime legislation -- especially for a juvenile Brady provision, which will stop violent juveniles from owning guns as adults. We also should challenge the four cities leading the nation in juvenile crime (New York, Los Angeles, Chicago, and Detroit) to replicate Bostons successful strategy and target resources to these cities to help them meet this challenge.

Welfare/Housing

1. Welfare-to-Work Housing Vouchers: We are working with OMB and HUD on a proposal for 50,000 new housing vouchers to help welfare recipients in public housing who need to move in order to find employment. We would distribute these vouchers on a competitive basis to public housing authorities working with local TANF agencies and/or grantees of the new \$3 billion welfare-to-work program. We are working on a number of proposals to increase housing mobility (see below), and linking this issue to welfare reform may increase the

chance of attracting congressional support. At the same time, we should reiterate our support for welfare-to-work transportation funds as part of NEXTEA.

Housing

1. Housing Portability/Choice: In addition to the new welfare-to-work housing vouchers discussed above, a package on housing portability and choice could include: increasing the number of Regional Opportunity Counseling (ROC) sites; encouraging the use of exception rents (rents up to 120 percent of the "fair market rent") as a tool for opening up more expensive suburban housing markets; and eliminating obstacles to portability of Section 8 vouchers.
2. Fair Lending/Fair Housing: This proposal could include: an examination of the impact of credit scoring and risk-based pricing on the availability of credit/capital to lower-income and minority individuals; issuance of guidance by banking regulators on certain key credit scoring issues and, possibly, on risk-based pricing; a Presidential call to the FDIC and the Federal Reserve to obtain more data on reasons for home mortgage loan denials (OCC and OTS already collect such information); and collection of race and income data as part of the Equal Credit Opportunity Act/CRA small business and small farm lending reporting requirement.
3. Downpayment Reduction: We are working on a proposal to increase homeownership by reducing the barriers to buying a new home. Many low- and moderate-income families find a downpayment the largest hurdle to buying a new home; this initiative would lower this cost and help more families become homeowners. In 1992, Congress authorized the National Homeownership Trust, but never appropriated any money. We are investigating whether we should request money for this program or whether it is better policy to expand the existing HOME program (which serves a similar purpose).

Labor/Workforce

1. Child Labor: We are working on a comprehensive Child Labor Action Plan, anchored by a \$100 million commitment to the International Program on the Elimination of Child Labor (IPEC) -- a voluntary program of the International Labour Organization which is dedicated to the elimination of child labor. The funds, which would be managed by the Department of Labor in accordance with criteria we would develop, would go to programs attacking the most intolerable forms of child labor. The initiative also might include a stepped up Customs program to enforce U.S. law banning the import of goods made with forced or bonded child labor; increased support for the Migrant Education Program to support elementary and secondary education to the hardest-to-serve migrant children; and a call for prominent organizations, such as the Boy Scouts and Girls Scouts, to adopt a "No Sweat" code for uniforms and an accompanying label.
2. Pensions: We have developed an expanded pension coverage initiative that focuses on a simplified defined benefit plan for small businesses, based on the SAFE plan proposed by the American Society of Pension Actuaries (ASPA). We are also looking at a payroll deduction IRA proposal, a three-year vesting requirement for employer matching contributions in 401(k) plans, a womens pension initiative, and a pension right-to-know proposal.
3. Community Adjustment: As part of the Fast Track debate, we proposed the creation of the Office of Community and Economic Adjustment (OCEA). As you know, this office will be

modeled after the Defense Departments Office of Economic Adjustment (OEA) -- the Administrations first point of contact with communities experiencing a military base closure or defense plant closing. The OCEA would coordinate the Administrations response to regions impacted by a major plant closing or trade, by working with Labor, Commerce, SBA, HUD, Treasury, and other government entities. This group would provide planning grants and expertise to help communities develop comprehensive economic adjustment strategies. Since this program will be part of the Economic Development Administration (EDA), we are investigating whether we could initiate this proposal by executive memorandum, while awaiting Congressional appropriations.

Climate Change

1. Tax Incentive and R&D Package: You already have committed to a \$5 billion package over five years for tax incentives and R&D to promote low-carbon technologies. The Treasury Department is working on a possible package of tax incentives to be included in the FY 1999 budget, and DOE has a proposal on the expenditure side. We are working to develop final options.

Race

A number of the above proposals -- e.g., education opportunity zones, university-school partnerships, housing vouchers -- can be presented as part of the race initiative, because they target predominantly minority areas or provide disproportionate benefits to members of minority groups. Other proposals described above -- the Hispanic dropout plan and the race and health initiative -- have obvious and explicit race connections. In addition:

1. Civil Rights Enforcement Initiative: We are working on a coordinated package of reforms for the EEOC and the civil rights offices at DOJ, HUD, HHS, Education, and DOL. Among other things, this proposal would expand dramatically the EEOCs mediation program, substantially increasing the average speed of resolving complaints and reducing the EEOCs current backlog. Similarly, the proposal would promote the increased use of non-adversarial techniques by the agencies civil rights offices. The proposal also would provide a mechanism for better coordination among the various civil rights offices.

MEMORANDUM FOR ERSKINE BOWLES
- -MEMORANDUM FOR ERSKINE BOWLES.doc
May 13, 1998

MEMORANDUM FOR ERSKINE BOWLES

Through: Frank Raines
From: Joshua Gotbaum
Re: Materials on Tobacco Spending

Attached are two exhibits for our meeting this afternoon.
Alternative Spending Proposals for a discussion of whether and what to propose for use of tobacco receipts. It compares the Presidents Budget with:
A Strawman that would probably satisfy all the major constituencies and many budget commitments, but would spend \$14.5 billion over five years more than McCains bill would raise. (This is under OMB estimates; CBO will probably show even lower net revenues.)
A Balanced Strawman that omits spending for some health research, state funds from the initial payment, a contribution to the tort fund from the initial payment, some non-health research, and reduces payments for farmers.
Alternative Uses of the State Share for a discussion of whether to move off our Budget proposal and, if so, to what. It compares our original Budget proposal and the Harkin/Chafee/NGA broad menu with possible alternatives:
A limited menu, which adds substance abuse and a few other health, welfare and education uses to the original child care, class size and Medicaid outreach proposals.

An alternative new Child Health & Development Fund, which would move even further toward the states desire for very minimal Federal constraints on how they spend the Federally-directed share.

c:Bruce Reed
Elena Kagan

MEMORANDUM FOR BRUCE REED
ELENA KAGAN

FROM: Nancy-Ann Min

SUBJECT: Idea for Memorial Day Announcement/Event

On the day after Memorial Day last year, the President announced that he would seek precedent-setting legislation, marking the first time that children of American soldiers would receive benefits for combat-related health problems. This Memorial Day might be a good opportunity for the President to announce how the Department of Veterans Affairs (VA) has adopted an innovative approach to implementing this policy.

Background

Following the Presidents May 1996 announcement, the Administration transmitted to Congress legislation to provide medical care and rehabilitation benefits and pay compensation to those children of Vietnam veterans who were exposed to Agent Orange and who are suffering from spina bifida. Congress passed the legislation and, on September 26, 1996, the President signed P.L. 104-204. Because the VA health care system is focused on adult veterans, providing services to children nationwide for congenital defects that require long-term multi-disciplinary care has been a challenge.

VA Signs An Agreement with Shriners Hospital for Children

Since Congress delayed the effective date of these benefits until October 1, 1997, the Administration had the opportunity to develop a coordinated approach to implementing the policy. On March 28, 1997, in an extraordinary example of public-nonprofit partnership, VA signed an agreement with Shriners Hospital for Children (SHC) to provide free, high-quality medical care to children of Vietnam veterans who are suffering from spina bifida (see attached press release). Under the agreement, VA will identify the entitled children and refer them for treatment at one of the seventeen orthopedic Shriners Hospitals located in the United States (see attached).

This partnership between VA and Shriners is an innovative solution that will provide the best quality care at no cost to the government. With a mission to provide expert orthopedic care to children totally without charge, Shriners hospitals treat a greater number of children with spina bifida than any other single healthcare provider. I understand that Rep. Joe Kennedy played a role in orchestrating this arrangement.

Beginning in October, VA will cover the transportation costs for children and their parents or legal guardians to any Shriners Hospital. In addition, VA will reimburse other facilities for any necessary medical services not provided by Shriners. Estimates of the total number of children who may use VA benefits range from 600 to 2,000.

Shriners Hospitals for Children (SHC)
Orthopaedic Hospitals

*Chicago Hospital
2211 N. Oak Park Ave.
Chicago, IL 60635-3392
312-622-5400

Erie Hospital
1645 W. 8th St.
Erie, PA 16505
814-875-8700

Greenville Hospital
950 West Faris Road
Greenville, SC 29605-4277
864-271-3444

Honolulu, Hospital
1310 Punahou St.
Honolulu, HI 96826-1099
808-941-4466

Houston, Hospital
6977 Main
Houston, TX 77030-3701
713-797-1616

Intermountain Hospital
Fairfax Ave at Virginia St.
Salt Lake City, UT 84103
801-536-3500

Lexington Hospital
1900 Richmond Rd.
Lexington, KY 40502
606-266-2101

*# Northern California Hospital
2425 Stockton Blvd.
Sacramento, CA 95817
916-453-2000

Los Angeles Hospital
3160 Geneva St.
Los Angeles, CA 90020
213-388-3151

*Philadelphia Hospital
8400 Roosevelt Blvd.
Philadelphia, PA 19152
215-332-4500

Portland Hospital
3101 SW Sam Jackson Park Road

Portland, OR 97201-5090
503-241-5090

St. Louis Hospital
2001 S. Lindbergh Blvd.
St. Louis, MO 63131-3597
314-432-3600

Shreveport Hospital
3100 Samford Ave.
Shreveport, LA 71103
318-222-5704

Spokane Hospital
911 W. Fifth Ave.
Spokane, WA 99204-2901
509-455-7844

Springfield Hospital
516 Carew St.
Springfield, MA 01104
413-787-2000

Tampa Hospital
12502 North Pine Dr.
Tampa, FL 33612-9499

Twin Cities Hospital
2025 E. River Rd.
Minneapolis, MN 55414
612-335-5300

* Includes Spinal Cord Injury Rehabilitative Center

Includes Burn Center

March 18, 1998

MEMORANDUM FOR GENE SPERLING

FROM: NEC STAFF

RE: Morning Meeting Information

Pew Charitable Trust: We have now nailed down a timeline-script for the discussion that we are reviewing with scheduling. Susan Rook will moderate, and the President will hear very briefly (30 seconds each) from each of the sites about what they had concluded in their meetings. The entire introductory segment would take approximately 6 1/2 minutes and is scripted very tightly by a former t./v. producer. The President would then speak for about 10 to 12 minutes from the OEOB studio (Room 459.) They would like us to arrange editorial board calls from You, Raines, and Shalala into the 10 markets before the event. Let me know if you would like to do that.

IRS Reinvention: As previously noted, the Vice President is doing an event on customer service improvements at the IRS tomorrow at 2:30 p.m. in the Roosevelt Room.

Pomeroy Event: We continued to work on preparations for the Pomeroy event today. After running it by Treasury, Jake gave Pomeroy's staff the following sentence on your participation to add to their press announcement: "Gene Sperling, the director of the President's National Economic Council, will speak at the event to voice Administration support for Rep. Pomeroy's efforts to advance a shared goal of pension portability." Chuck spoke with Treasury and has prepared draft talking points for you (see attached memo).

High Hopes in Committee Today: Rep. Fattah will offer the Administration's High Hopes proposal as an amendment to the House Committee mark on Wednesday (today). Fattah has secured support of all House Committee Democrats and four of the Republican Committee members (Souder, McIntosh, Greenwood, and Scarborough) for High Hopes.

On the Senate side, today in the FY99 markup, Domenicis mark-up does not assume enactment of any of the President's initiatives, included in the resolution is a sense of the Senate which states that until IDEA is fully funded no new education programs can be fully funded.

Buy-in, HIPAA follow-up: There appears to be fairly good press coverage; Good Morning America may highlight it tomorrow morning, USA Today may be running something, as well as a fair amount of regional press. Jennings will be going to the Press Club to sit on a panel (Chip Kohn, President Elect of the Health Insurance Association of America, a Consumers Union Representative, and the author of the Report) for the formal unveiling of the Kaiser Family Foundation study (plan was unveiled Tuesday -- due to POTUS mentioning of it in his Medicare remarks) of the individual insurance market. The report shows that there is a market problem and validates what we have been saying.

There may also be lots of questions about the HIPAA / GAO study. Good news: Senate approved a supplemental of \$65 million (need to check) for HCFA, with I think an earmarked \$6 to 10 million for HIPAA implementation (should fund 65 FTEs). Nancy Ann is testifying on this on Thursday.

Minimum Wage: Tomorrow, Senator Kennedy and Rep. Bonior will introduce our minimum wage

proposal to increase the minimum wage by \$1 in two equal steps -- the first on January 1, 1999 and the second on January 1, 2000. This increase will benefit 12 million workers. Kennedy/Bonior are holding a forum with minimum wage workers, a small business owners, and economists on Thursday afternoon. (You have been invited to participate.)

Electricity Restructuring: Sally and P. Orszag believe they have brokered a deal--reached a compromise. They will send a memo to the President tomorrow seeking his approval to move forward with the compromise.

H1-B: Sally and Elena Kagan chaired a deputies level meeting yesterday evening, in which they formulated a position that would essentially commend Kennedy and his comprehensive approach to the short term and long term problems: training, H1-B reform, H1-B caps.

The GI Bill: Well, don't pop the champagne just yet on the GI Bill. Senator Coats has put a hold on the Senate Workforce Investment Partnership Act because of language that limits using the money in sectarian institutions (or buildings, I think). DOL is working to smooth out this new wrinkle. I think that folks are optimistic that this fire can be "put out," however it is unlikely the bill will go to the floor this week, but may go early next week.

Economic Statistics: Tomorrow, the CPI and the International Trade statistics are released. The CPI is expected to be up 0.1%, following an unchanged reading in January. The core index is expected to have increased 0.2%, the same as in January. The trade deficit is forecasted to increase to \$11.3 billion in January, from \$10.8 billion in December. Exports are expected to be down, while imports are expected to be up.

Budget Resolution: On Tuesday the Senate Budget Committee began marking up and Domenici put down his mark (Chuck is working on talking points with OMB). The Democrats are expected to put their budget down tomorrow morning.

A Deal on Cox-Wyden?: Cox believes that he has a deal with NGA and the industry on Cox-Wyden. Although there is nothing on paper [so do not take this as gospel] -- the outline of the deal is:

- *Reduce moratorium from 6 to 3 years
- * Permanent moratorium on access charges
- *Expand charter of study process to look at nexus issue
- *Commitment from the leadership to bring a bill dealing with the nexus/mail-order issue to the floor - presumably after the study process [This may just be a commitment from the leadership -- not clear how it could be enshrined in legislation.]

It might be worthwhile with NGA to see if they have really signed off on this -- and what the next steps are from their point of view. Preliminary reaction from Treasury staff is positive

IMF -- Supplemental: After testifying on the Hill, Secretary Albright and Secretary Cohen, joined by Secretary Rubin, will hold a press conference on the Hill to urge Congress to pass the supplemental with all four major national security priorities intact (Iraq, Bosnia, IMF and Un arrears.) The idea is to stave off GOP attempts to separate out one or more critical pieces from the supplemental. State is coordinating with Treasury and

Defense, and the event is likely to take place about 12:30 p.m. in the triangle outside the House side (aka the Swamp.)

IMF: The Senate Appropriations Committee voted out the IMF funding bill 26-2. Most of the objectionable provisions referenced in the Rubin letter stayed in, but the vote was for the full amount. Only one of the objecting votes was concerned about IMF. As I noted before, Albright, Rubin, and Cohen will hold a joint press avail on the Hill to highlight the importance to national security of moving quickly on the entire package -- IMF, Bosnia, Iraq, and UN arrears. Treasury is concerned about some of the provisions in the IMF bill, but hopes that we are lucky enough to get it to conference where we might have a chance to fix them.

National Academy of Sciences Report on Reading: The NAS will release (this morning) the results of a two-year-long study on preventing reading difficulties in young children. While we do not know the contents of the study, we expect it to offer research-based support for our overall approach to reading and early childhood (America Reads, child care and early intervention, class size reduction.) We expect that Secretary Riley will release a press statement, linking the study to the President's proposals to improve reading. The Secretary will also say that he will work to disseminate this study widely to teachers and students across the country. We will get a final draft of that statement tomorrow morning.

FYI - Secretary Rubin on Evans & Novak. Secretary Rubin will be doing Evans and Novak on Saturday. Topic is economy, IMF, social security, taxes, and other issues.
Economic events: There are two key economic releases this week (both on Thursday): the CPI is expected to be up 0.1%, and the trade deficit numbers are forecasted to show further widening.

Here is a summary of all the events for next week:

DateEventComments

Wed., Mar. 18Beige Book Expected: Focus on effects of Asia crisis and tight labor markets.

Thur., Mar. 19Consumer Price Index (Feb.)Expected: Up 0.1% in February, following an unchanged reading in January. The core index is expected to have increased 0.2%, the same as in January.

International Trade (Jan.)Expected: Up to \$11.3 billion in January, from \$10.8 billion in December. Exports are expected to be down, while imports are expected to be up.

Fri., Mar. 20Federal Budget (Feb.)Expected: Deficit of \$39 billion in February, compared to \$44 billion in Feb. 1997.

March 23, 1998

MEMORANDUM FOR GENE SPERLING

FROM: NEC STAFF

RE: Morning Meeting Information

Equal Pay: Katzen and Kagan were originally thinking of meeting with "the women" (Greenberger, Lichtman, et al) tomorrow afternoon, but they have postponed their meeting until Tuesday because Audre Haynes (she is expecting you to mention this at 7:45am, she will reiterate at 8:30am meeting) in the womens office suggested that there be a bit more processing. Sally and Elena (NEC/DPC) are putting together a memo that will be circulated to the Principals (EBB, Rubin, Sperling, Podesta, Reed etc.) tomorrow afternoon to make sure that everyone is in sync.

Kids Health: Friday, California submitted its response to HCFA, so that its deadline for approval is now Wednesday 3/25. There is still a possibility of using the NY kids health approval for a radio address--you may want to bring this up.

America Reads: Tomorrow (Tuesday) morning Larry Stein and myself will meet with Hoppe (Lotts Chief of Staff) to help get the America Reads bill moving.

Electricity Restructuring: The Department of Energy intends to unveil the Administration's electricity restructuring proposal in a ceremony on Wednesday, March 25. We expect that the proposal will produce consumer savings of roughly \$20 billion per year, and reduce carbon emissions (by 25 to 40 million metric tons in 2010).

McClellan AFB: Sudden Turn of Events: On Friday, Hill Air Force Base in Utah stunned DoD and the defense industry by selecting Boeing as its partner for the "public-private" competition for the workload now performed at the closing McClellan AFB in Sacramento. Lockheed had been expecting to get the nod from Hill, and Boeing, which has had a team in Sacramento for months, had been prepared to compete as a private bidder. The expected arrangements were ideal for Sacramento: If Boeing won, all of the work would likely stay in a privatized McClellan facility. And, even if Hill-Lockheed won, Sacramento would keep half of the workload, because Lockheed had formally committed to keep the KC-135 aircraft repair work at McClellan (Hill AFB lacks the capacity to take on additional aircraft repair). With Hill's surprise decision, all that is changed, and -- at least for now -- there is no sure private sector bidder in the \$200M/year (2000 jobs) competition, which began on Friday with DoD's release of the RFP. Worse still, Hill AFB officials told Sacramento reporters that, if Hill-Boeing won the competition, Boeing would move the KC-135 work to the company's new repair center in San Antonio rather than to Sacramento (although Boeing did not confirm or deny that). Dorothy, will talk to Whit Peters (Acting Air Force Secretary) and Chris Hansen (head of Boeing's Washington office) first thing Monday to get additional information. (See attached email for more information)

FTAA Trade Negotiations: On Friday, Barshefsky announced that the Fourth FTAA Trade ministers provided a solid foundation for a comprehensive and successful launch of substantive negotiations at the Santiago Summit. (See attached Press release and FTAA Negotiation Framework)

SAVER SUMMIT ANNOUNCEMENT: The event could be this Thursday or Friday (Rahm has not yet decided). The event will not only describe the Presidents goals for the Summit in early June, but will also name the 100 people he choose (in consultation with Congressional Democratic Leadership) to participate in the June summit. Participants include representatives of seniors organizations, trade associations and labor unions, as well as small business owners. I let Rep. Pomeroy know last Thursday that he would have a prominent role (POTUS and EBB asked you to do this). Participant list and draft press release attached

Senate/Coverdell Update: The Senate still has no agreement on debate on Coverdell Bill. Lott apparently threw a tantrum on the Senate floor, complaining that Dems are holding everything up. In a shift in schedule, he announced that the Senate will turn to the Supplemental on Monday at noon.

I spoke to Daschle's guy after a meeting on the Hill where Byrd's staff relayed to Bob that there are reports of continued discussions between the two Republican IMF camps but there apparently has been no resolution.

US-EU Blair Cable--President Clinton sent a cable to Blair to stress his support for the US-EU trade initiative because Blair leaves for France Monday morning and France has threatened to kill this thing.

CC/AARP Social Security Forum -- No new info since yesterday. We have been talking with Concord and AARP about the first forum on April 7; tentatively 12-4 pm at Penn Valley Community College in Kansas City. We plan to have a meeting -- with Scheduling, Communications, others -- first thing next week on the event.

Format. We now feel somewhat comfortable with the format. President and multiple members of Congress open with remarks. Then, there will be a presentation by the moderators (tentatively Matt Miller and Susan Densler) on various reform options, followed by a panel discussion (experts may include Moon, Bartless, David Walker, Fred Goldberg) and audience questioning of panel on those options. Then, a town meeting will follow with President and multiple members of Congress; we will keep this portion substantive either through brief panel member presentations or Concord/AARP presentations. [When we receive the updated format/agenda from CC/AARP in the next few days, we could circulate it.]

Congress. Stein called Lott and Gingrich's offices earlier this week, but AARP learned today that the Speaker can not attend and AARP has asked you to encourage Erskine to make a call to the Speaker. CC/AARP are following up with those and other offices.

FYI from Peter: Peter wants to make sure you know that Larry is having another Social Security meeting at Treasury on Monday, March 23. Peter has been included in the process.

Here is a summary of all the events for the week:

There arent any major economic releases next week. The only one people may be interested in is the personal income release on Friday. Expectations are that personal income will be up 0.5% in February, following a 0.6% increase in January. On Thursday, real GDP for the fourth quarter is revised for the final time.

Here is a summary of all the events for next week:

DateEventComments

Wed., Mar. 25 Durable Goods Orders (Feb.) Expected: Up 0.7% in February, following 1.6% increase in January (which followed a 5.3% plunge in December). The increase in new orders suggests that the backlog of unfilled orders also rose.

Existing Home Sales (Feb.) Expected: Unchanged at 4.44 million in February. This high rate -- because of mild weather and low mortgage rates -- should lead to higher furniture, electronics, and textiles sales.

Thur., Mar. 26 Real GDP (Q4) Expected: Growth in the fourth quarter is not revised from its 3.9% rate.

Fri., Mar. 27 Personal Income (Feb.) Expected: Up 0.5% in February, following 0.6% gain in January. Consumer spending likely rose 0.5% in February. Real consumer spending is on track to grow at annual rate of 5% in first quarter.

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April 10, 1998

MEMORANDUM FOR GENE SPERLING

FROM: NEC STAFF

SUBJECT: Information for Morning Meeting

Fair Housing Act 30th Anniversary. The NEC, working with the DPC and HUD, is preparing a Presidential statement, to be issued on today, commemorating the 30th anniversary of the Fair Housing Act (it was passed on April 10th and signed by LBJ on April 11). The statement will also call for Congress to provide the full \$22 million funding increase requested by the Administration, in the FY 99 budget, for HUDs fair housing enforcement efforts. Ten million dollars of the increase would fund a new paired testing initiative in 20 metropolitan areas. Paired testing, in which otherwise identical white and minority testers (for example, same income, type of job, job experience) approach realtors or landlords, is perhaps the best way to detect the subtler housing discrimination prevalent today.

Update on Hashimoto Announcement: Yesterday, there was an inter-agency agreement that we (the Administration) would make some what supportive statements of the stimulus announcement while indicating that we look forward to seeing the details and underscoring that it is crucial that Japan moves forward quickly to put in place a strong program. Treasurys assessment is that the new package will not produce decisive upturn in the Japanese economy but will help to avoid precipitous down turn.

FCC Action: Today, April 10th, the FCC is scheduled to release a report to Congress that would require Internet Service Providers that provide telephone service over the Internet to pay in to the Universal Service Fund. The FCC is under pressure from Senator Stevens to make Internet Service Providers pay in to the Universal Service Fund. This would be a significant change in policy - because until now -- the FCC has not regulated Internet Service Providers. The NEC will meet with OVP and Ira to determine how the Administration should respond to these developments.

IRS Radio Address: The President will tape it later today. It will highlight the need for Congressional action on IRS reform bill, showcase important improvements in customer service at the IRS and indicates that the President is determined to route out any abuses of tax payers rights. Stories about IRS abuses will continue in the days ahead there should be one in todays (Friday) Washington

Chronicle on Higher Education Article: Today, at 10:00am Bob Shireman will attend a meeting with Sylvia Matthews (Host) and other to discuss the White Houses plan to form a diversity group to inform the public of the value of diversity and the need for affirmative action on college campuses. See attached article.

H1-B Update: Sally and Elena Kagan co-hosted a DPC/NEC deputies meeting on the H-1B visas yesterday afternoon. The discussion focused on three issues: reform, training and strategies for the increasing the cap. We're hoping to get reports back from the agencies early next week at which point we'll decide whether there should be another deputies

meeting, and/or whether this should go to the principals. Meanwhile, the VP's office has decided not to meet with the Representatives from the House who had approached him to discuss this matter. Rather, DPC/NEC staff will meet with them instead.

According to Kennedy's staff, although Lott has not mentioned bringing the Abraham bill to the floor, it is likely to reach the floor in early May. Also, Kennedy's staff and Abraham's staff are likely to begin talking about a compromise next week, although they are eager to see what will happen in the House.

Homeownership Rate: On Tuesday, April 21, the homeownership rate for the first quarter of 1998 is released. There is a possibility that it will increase again to its highest quarterly rate on record. As you may recall, in the third quarter of 1997, the homeownership rate hit an all-time high of 66.0 percent. In the fourth quarter, however, the rate fell back to 65.7 percent. But we were lucky: the annual rate for 1997 was released with the fourth quarter data and it was at its highest rate ever (65.7 percent). Since we will have to return to using the quarterly data -- instead of the annual data -- we need to homeownership rate to increase to 66.0 percent (or higher) in first quarter of 1998. Since the housing market has been very strongly lately, this is possible (though not guaranteed). On either Friday the 19th or Monday the 20th, HUD can provide us the homeownership numbers (because they are not "market sensitive").

Below is a summary of the economic events this week:

Next week is a quiet one for economic statistics. The only major economic release is the Producer Price Index (PPI) which is expected to fall by 0.1 percent. Drops in oil and import prices will be partially offset by food price increases. The core index is expected to be flat. Over the past year, the PPI has fallen 1.7 percent, while the core index is essentially unchanged.

Here is a summary of all the events for next week:

DateEventComments

Tues., Apr. 7 Installment Credit (Feb.) Expected: Consumers probably borrowed \$4 billion more in new debt in February, after rising \$2.9 billion in January. This will cause ratio of installment debt to disposable income to fall to 20.3% in first quarter, from 20.8% in Oct. 96.

Thurs., Apr. 8 Producer Price Index (Mar.) Expected: Down 0.1 percent in March, because of oil prices and cheaper imports. This would be fifth consecutive monthly drop. The core was probably unchanged in March, after increasing 0.1 percent in Feb.

*April 24, 1998

MEMORANDUM FOR GENE SPERLING

FROM: NEC STAFF

SUBJECT: Information for Morning Meeting

Japan Stimulus Announcement: package should match Hashimotos promise of 10 trillion yen in real water and significant temporary tax cuts. (See attached memo)

Presidential Radio Address, Saturday April 25: The radio address is on track. The presidential directive on cracking down on fraud is almost finished (it does include a one-year timeline), and we are awaiting a draft from speechwriting. See attached e-mail from Jake.

NJ and CT plans approved Friday: NJ plans to cover 68,000 children through a combined Medicaid (up to 150% of poverty) and non-Medicaid (up to 185% of poverty) plan. Connecticut will also use a combined expansion: Medicaid up to 185% of poverty, non-Medicaid up to 300% of poverty (not sure how many kids they plan to cover). Missouri is on the slate for next week pending resolution of final details. The VP may be involved.

Fraud report released Today: HHS Office of the Inspector will release a report today (that got leaked to the wires yesterday) that says there are \$20 billion in Medicare overpayments (down from \$23 billion last year). Jennings is working on Q&As / extracting good things from the report. Nancy Ann is testifying on it Friday as well.

CBO Update: The CBO did not be announce their numbers yesterday (Thursday) instead they will likely do it today (Friday). Apparently, at this point, the CBO is prepared to say:

- 1) It appears that there has been no April surprise of a boost of revenue. Numbers are coming in consistent with projections.
- 2) Surplus could be higher than \$8 billion, but CBO needs to see more information before making a new estimate.
- 3) They do not know enough yet to discuss beyond this year (FY98).

This is where they apparently are now, subject to additional heavy pressure from Kasich, who is pushing them to provide new large surplus numbers for this year and beyond.

IRS Hearings: You should also remind people that next week's hearings on the IRS will be painful.

NEC Deputies Meeting: Today at 11:00am, Sally will hold a Deputies Meeting to discuss privacy issues.

Ag Bill: We are hearing that Senators Lugar and Harkin are going to distribute a letter that says that at least 60 senators are in favor of the Ag Bill with the food stamp piece attached.

H-1B Visas: Yesterday Sally Katzen, Elena Kagan, Peter Jacoby, and Karen Tramontano met

with Representatives Lamar Smith, Mel Watt, and Zoe Lofgren to discuss their positions and the Administration's (general) position on H-1B visa legislation. Today, there will be a meeting with Sally, Elena, Ceci, and Julie Fernandes (of the DPC) (and undoubtedly others) with House staff. The attendees will represent the offices of: Drier, Blumenauer, Moran, Hooley, Rogan, Dunn, Hall, Campbell, and Shays.

Meanwhile, we are extremely close to have a draft of the Administration's position regarding H-1B visa legislation (particularly the reforms) that we hope to circulate more widely on Friday.

G. I. Bill: Both the Republicans and Democrats "hotlined" (sent around) the bill this evening and as of about 8:30 pm there were no holds. Therefore, the bill may be ready for scheduling. If all goes well, the bill should get to the Senate floor by sometime next week. Meanwhile, we should all be aware that there is the Ashcroft amendment which is completely unacceptable and that would potentially invoke a veto if it stands in its current form. By all accounts, the Conference will not be easy (because once the House sees the Ashcroft amendment, they may really like it and want it to stay). Therefore, should the bill get through the Senate, we will need to develop a high-level Conference strategy.

First Quarter GDP Growth: On Thursday, April 30th, the Commerce Department releases first quarter GDP growth. CEA forecasts first quarter GDP growth at about 3.5 percent; Merrill Lynch puts it at 3.2 percent; and Goldman Sachs estimates growth for the first quarter at 4.0 percent.

NEC Deputies Meeting: On Tuesday, April 28, Sally Katzen will host a Deputies Meeting to discuss privacy issues.

Social Security Trustees Report: Next Tuesday, April 28, the social security trustees report will be released. Outside experts are expecting a slight improvement relative to the 1997 report (which showed a 75-year actuarial imbalance of 2.23 percent of taxable payroll, and forecasted that the Trust Fund would be depleted by 2029).

Medicare Trustees Report, Tuesday, April 28: Although there will be no information released on the status of the Trust Fund prior to the official release, it seems clear that results from a recent analysis will hold: that the BBA reduced the 75-year actuarial deficit of Medicare by about one half. It is unclear whether the precise year of Trust Fund exhaustion will remain at 2010. We plan on holding meetings on Monday and Tuesday to ensure that there is a constructive roll out of information likely to come out of the report.

Bankruptcy: There will be an NEC principals meeting on Monday to discuss our position on Bankruptcy Reform

Informal Discussion with White House Staff
Leadership Conference for Presidential Appointees and Nominees
Saturday, April 25, 1998
12:15pm - 1:45pm

Below is a sample list of questions (not in order) that Ann Lewis will open with:

Given that Social Security has traditionally been the third rail of politics, what are the prospects for Social Security reform in the next year? (Gene Sperling)

What are the implications for both the White House and the agencies of a budget environment now characterized by a surplus? (Larry Stein)

How do you balance the viewpoints of different interest groups when some support the Administration on a given set of issues or challenges and some do not? (Maria Echaveste)

The Child Care initiative involved several agencies working successfully in partnership with the White House. What about this partnership was particularly notable? (Elena Kagan)

Would you talk briefly about how the presidential appointments process works? Do you expect to continue being able to push nominations along? (Bob Nash)

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December 7, 1997

MEETING ON UNIFIED SURPLUS AND SOCIAL SECURITY

DATE:December 8, 1997
TIME:11:20 a.m. - 12:20 p.m.
LOCATION:Cabinet Room
FROM:Gene Sperling

I. PURPOSE:

To follow-up on a meeting held last week with you on options relating to the unified surplus, Social Security and individual retirement accounts. We will be submitting a memorandum to you today that provides more information on these issues.

II. BACKGROUND:

The economic team has been meeting to discuss possible uses of the unified surplus, from financing tax reform to strengthening Social Security. As you know, there is much interest in using the surplus to bolster the Social Security system or to fund individual retirement accounts -- both to raise national saving and to pre-empt misguided tax reform ideas that are part of a larger strategy to reduce the role of government. While many of us believe that the approach is potentially very promising and dramatic, there are many difficult and complex issues that are emerging as we carefully consider the various possibilities.

III. PARTICIPANTS:

The Vice President
Erskine Bowles
Frank Raines
Gene Sperling
Secretary Rubin
Jack Lew
Paul Begala
Larry Summers
Peter Orszag
Janet Yellen

Ron Klain
Rahm Emanuel
Bruce Reed
John Hilley
Sylvia Mathews
John Podesta
Ken Apfel
Elena Kagan

IV. SEQUENCE OF EVENTS:

-- You will be meeting with your advisors.

V. PRESS COVERAGE:

None

VI. REMARKS:

None

I expect a conference call on Wednesday morning with:

Brian Coyne
Susan Daniels
Ken Nibali
Arthur Freed

Since the period for comment on the regulation closed in early April, SSA has been reviewing comments.

We have not been involved in this process at all.

In the course of the reviews, SSA staff has met with Jonathan Stein, who is one of the most vocal members of the advocate community and was driving force behind the Zebley case.

In addition, SSA staff has talked with doctors at the Kennedy Foundation in order to clarify SSA procedures and better delineate the issues of concern around mental retardation. SSA staff impression was that these doctors learned about the SSA process through these discussions and came away with a better understanding of the rationale behind SSAs positions.

It will be at least four weeks before SSA has enough information about the results of the redeterminations to be able to speak to how accurate the estimate of 135,000 children losing benefits will be.

SSAs take on Steins proposals is that they would have the effect of loosening the eligibility requirements to a standard less tough than the one in place before the law was changed.

SSA has no timetable because they dont want to lock in new rules until theyve had time to assess the effect of the applicaiton of the new guidelines.

☐ You are meeting tomorrow (Thursday) at 11:00 in the Roosevelt Room with Eunice Shriver on SSI Childhood Disability. She is bringing Jonathan Stein (Community Legal Service in Philadelphia), Martha Ford (Consortium for Citizens with Disabilities), and Guy McKahn (a pediatric neurologist who is Director of the John Hokins Universitys Krieger Institute on the Brain and is associated with the Joseph P. Kennedy, Jr., Foundation). Attending from the White House will be Sylvia Matthews, Elena Kagan, and Diana Fortuna. This package on SSI Childhood Disability contains:

(1)Bullets on the current status of SSAs review of the new childhood disability interim final regulations.

(2)A copy of a May 20 letter from Jonathan Stein to OMB covered by a point-by-point reaction to the Stein letter.

(3)A page summarizing the legislative proposals considered during the welfare reform debate, beginning with the proposal passed by the House in March 1995 that would have transformed the program into a Block Grant to States.

(4)A page summarizing the options for implementing regulations that were considered between

August 1996 and February 1997 when the decision on regulations was announced.

(5)The White Paper prepared in October 1996 that presented a discussion of the options, which provides the best summary of this complex subject. Note that the option finally chosen was a variation of Option 2 in this paper that allows for additional consideration for children whose limitations are occasional or episodic, but severe when they do occur.

(6)SSAs Press Release from February 6, 1997, announcing the regulation.

(7)A package of material provided by Eunice Shriver this afternoon (Wednesday) for tomorrows meeting.

Also note that the Balanced Budget Agreement includes a proposal "to restore Medicaid for current disabled children losing SSI because of the new, more strict definition of childhood eligibility."

SSI CHILDHOOD DISABILITY

SUMMARY OF LEGISLATIVE PROPOSALS

1995-1996

INITIAL CONGRESSIONAL PROPOSAL -- 3/95\$15 BILLION over 5 years

*Eligibility for Cash:

Current Recipients -- 2 marked limitations -- 190,000 children dropped

Future Recipients -- only 20% would get cash under this proposal

*Block Grants to States for Services for Additional Eligible Children

VETOED WELFARE BILL -- 12/95\$12 BILLION over 5 years

*Eligibility for Cash: 2 marked limitations -- 190,000 current recipients dropped

*Two Tiers -- Most children get 25% cut

*No Block Grant

PRESIDENTS 1997 BUDGET -- 2/96\$8 BILLION over 5 years

*Eligibility for Cash: 2 marked limitations -- 190,000 current recipients dropped

*Retain Full Cash Benefits

*Current Recipients Lose Benefits beginning 1-1-98

FINAL WELFARE REFORM BILL -- 8/96\$8 BILLION over 5 years

*Eligibility for Cash:2 marked limitations -- 190,000 current recipients dropped

*Retain Full Cash Benefits

*Current Recipients Lose Benefits beginning 7-1-97

SSI CHILDHOOD DISABILITY

SUMMARY OF MAJOR REGULATORY OPTIONS

Late 1996-Early 1997

OPTION 1

Literal Reading 190,000 Children Dropped \$8 BILLION over 5 years

- *Assumed Policy at Time of Enactment
- *"Two Marked" Standard
- *Drop Individualized Functional Assessment

OPTION 2 -- Chosen Option

Letter and Spirit of Law 135,000 Children Dropped \$5.6 BILLION over 5 years

- *"Two Marked" Standard
- *Drop Individualized Functional Assessment
- *Make easier for children with physical impairments to be found eligible
- *Make easier for children whose limitations are occasional, but severe when they occur, to be found eligible

OPTION 3

Advocates Position 45,000 Children Dropped \$1.6 BILLION over 5 years

- *Drop Individualized Functional Assessment (IFA)
- *Add new step with "One Marked and One Moderate" Standard

STANDARD PRIOR TO WELFARE REFORM BILL

- *Step One: Medical Listings: Two Marked Limitations for Functional Equivalence Test
- *Step Two: Individualized Functional Assessment -- Three Moderate Limitations

Meeting on Thursday, May 29th at 11:00 a.m.

Sylvia Matthews, Deputy Chief of Staff
 FDR
 Elena Kagan
 Diana Fortuna?

Ken needs to give something to the Director on where we are now/where we stand

fact sheet, white paper, no E-mail, no formal memo

by COB Friday

Medicaid
 grandfathering
 how good is the 135,000 figure?

Where we were at time of regulatory decision -- what led up to it
The regulatory decision....
Anything thats happened since -- are they getting the work done?

PF