

NLWJC – Kagan

Hard Drive – Folder 6

FEBRUARY 8, 1996

MEMORANDUM FOR:MARGARET A. WILLIAMS

FROM:JOHN M. QUINN.
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT:Additional Records Subpoenaed by the House Government Reform & Oversight Committee

As explained in our February 1, 1996 Memorandum to all staff of the Executive Office of the President, the House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its Travel Office investigation. In addition to the records identified in our February 1 Memorandum, the Government Reform Committee also seeks certain other records from your files. Please review your White House "records,"¹¹For purposes of responding to the subpoena, please refer to the definition of "White House Travel Office matter" found in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). and retrieve

1. "[a]ny records related to the White House Travel Office matter²²For purposes of responding to the subpoena requests, please use the definition of "White House Travel Office matter" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). or the White House Project³³For purposes of responding to these requests, the term "White House Project" refers to an endeavour which "involved both improving the 'staging' of Presidential events as well as finding a way to utilize excess Presidential Inaugural Commission funds for outsourcing White House assistance or providing assistance to the White House." that were created as of January 11, 1996; and

2.all calendars, "phone records (including message slips, phone logs, pages or any White House record of phone calls)" for the period May 1, 1993 through July 31, 1993 "indicating any meetings, messages or discussions" with the following individuals: Bill Kennedy, Vince Foster, Mack McLarty, Ricki Seidman, John Podesta, Todd Stern, Dwight Holton, Andre Oliver, Brian Foucart, Bruce Lindsey, Jack Kelly, Matt Moore, Beth Nolan, Cliff Sloan, Bernard Nussbaum, David Watkins, Catherine Cornelius, Jennifer O'Connor, George Stephanopoulos, Dee Dee Myers, Clarissa Cerda, Jeff Eller, Patsy Thomasson, Mark Gearan, Leon Panetta, Harry Thomason, Susan Thomases, Darnell Martens, Webb Hubbell, Linda Bloodworth-Thomason, Larry Herman (or any other KPMG partners or employees) and James Lyons.

3. "[a]ll calendars and phone records, message slips or phone logs, of the following individuals, made to or from any of the following individuals, from May 1, 1995 through November 30, 1995 regarding the White House Travel Office matter or the case of U.S. v. Billy Ray Dale:" Jane Sherburne, Jon Yarowsky, Natalie Williams, Miriam Nemetz, Abner Mikva, Capricia Marshall, Patsy Thomasson, John Podesta, Catherine Cornelius, Mark Gearan, Bruce Lindsey, David Watkins, Janet Greene, Betsey Wright, Webb Hubbell Bill Kennedy, Jeff Eller, Neil Eggleston, Cliff Sloan, Mike Berman, Harry Thomason, Darnell Martens, Beth

Nolan, James Hamilton, Susan Thomases, James Lyons, Roy Neel, John Gaughan, any employee of the Military office, 44 See Attachment 2 for a list of Military Office employees from January 20, 1993 to the present. Larry Herman, John Shutkin, any employee of KPMG Peat Marwick, 55 We are aware that at least the following KPMG Peat Marwick employees were involved in some aspect of the White House Travel Office matter: Larry Herman, Dan Russell, Leslie Casson, Carolyn Rawdon, Nicholas DiCarla, Charles Siu and John Shutkin. Billy Ray Dale, Barney Brasseur, John Dreylinger, Ralph Maughan, John McSweeney, Robert VanEimeren, Gary Wright, David Bowie, Pam Bombardi, Tom Carl, Stuart Goldberg, Lee Radek, Jamie Gorelick, Adam Rossman and David Sanford.

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If you have any questions regarding the House subpoena, please call Special Counsel Jane Sherburne (6-5116). [REDACTED] Attachment 1

[TO BE INSERTED] [REDACTED] Attachment 2

MILITARY OFFICE OFFICE EMPLOYEES
JANUARY 20, 1993 - PRESENT

John Gaughan
Alphonso Maldon
Alan Sullivan
Captain Jay Yakeley, USN
Captain Mark Rogers, USN
Colonel James Hawkins, USAF
Bobby Chunn
Joni Stevens
Commander Howard "Buzz" Couch, USN
Lieutenant Colonel Larry O. Spencer, USAF
Major Russell Cancilla, USA
Lieutenant Colonel John F. Schorsch, USA
Major Michael G. Mudd, USA
Commander Joseph Walsh, USN
Commander Richard Fitzpatrick, USN
Major John Wissler, USMC
Major Leo Mercado, USMC
Major Charles Raderstorf, USMC
Major Michelle Johnson, USAF
Major Darren McDew, USAF

Lieutenant Commander Wayne Justice, USCG
Lieutenant Commander Robert Walters, USCG
Lieutenant Commander June Ryan, USCG
YN1 Carol Schrader, USN
YN1 (AW) Ronald Wright, USN
Technical Sergeant Jon Sams, USAF
Staff Sergeant Keith Williams, USAF
Staff Sergeant John Otto, USAF
Technical Sergeant Jerome McNair, USAF
Sergeant First Class Edmund Carazo, USA
Sergeant Darryl Turner, USA

FEBRUARY 8, 1996

MEMORANDUM FOR: PATSY THOMASSON

FROM: JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT: Additional Records Subpoenaed by the House Government Reform & Oversight Committee

As explained in our February 1, 1996 Memorandum to all staff of the Executive Office of the President, the House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its Travel Office investigation. In addition to the records identified in our February 1 Memorandum, the Government Reform Committee also seeks certain other records from your files. Please review your White House "records,"¹¹ For purposes of responding to the subpoena, please refer to the definition of "White House Travel Office matter" found in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). and retrieve

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2. all calendars, "phone records (including message slips, phone logs, pages or any White House record of phone calls)" for the period May 1, 1993 through July 31, 1993 "indicating any meetings, messages or discussions" with the following individuals: Bill Kennedy, Vince Foster, Mack McLarty, Ricki Seidman, John Podesta, Todd Stern, Dwight Holton, Andre Oliver, Brian Foucart, Bruce Lindsey, Jack Kelly, Matt Moore, Beth Nolan, Cliff Sloan, Bernard Nussbaum, David Watkins, Catherine Cornelius, Jennifer O'Connor, George Stephanopoulos, Dee Dee Myers, Clarissa Cerda, Jeff Eller, Mark Gearan, Leon Panetta, Harry Thomason, Maggie Williams, Susan Thomases, Darnell Martens, Webb Hubbell, Linda Bloodworth-Thomason, Larry Herman (or any other KPMG partners or employees) and James Lyons.

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If you have any questions regarding the House subpoena, please call Special Counsel Jane Sherburne (6-5116). **FF** Attachment 1

[TO BE INSERTED] **FF** Attachment 2

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Alphonso Maldon
Alan Sullivan
Captain Jay Yakeley, USN
Captain Mark Rogers, USN
Colonel James Hawkins, USAF
Bobby Chunn
Joni Stevens
Commander Howard "Buzz" Couch, USN
Lieutenant Colonel Larry O. Spencer, USAF
Major Russell Cancilla, USA
Lieutenant Colonel John F. Schorsch, USA
Major Michael G. Mudd, USA
Commander Joseph Walsh, USN
Commander Richard Fitzpatrick, USN
Major John Wissler, USMC
Major Leo Mercado, USMC
Major Charles Raderstorf, USMC
Major Michelle Johnson, USAF
Major Darren McDew, USAF

Lieutenant Commander Wayne Justice, USCG
Lieutenant Commander Robert Walters, USCG
Lieutenant Commander June Ryan, USCG
YN1 Carol Schrader, USN
YN1 (AW) Ronald Wright, USN
Technical Sergeant Jon Sams, USAF
Staff Sergeant Keith Williams, USAF
Staff Sergeant John Otto, USAF
Technical Sergeant Jerome McNair, USAF
Sergeant First Class Edmund Carazo, USA
Sergeant Darryl Turner, USA

DRAFT -- FEBRUARY 2, 1996

MEMORANDUM FOR: ALL PERSONS ON ATTACHED DISTRIBUTION LIST

FROM: JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT: Additional Records Subpoenaed by the House Government Reform & Oversight Committee

As explained in our February 1, 1996 memorandum to all staff of the Executive Office of the President, the House Committee on Government Reform and Oversight has subpoenaed certain White House records in connection with its Travel Office investigation. In addition to the records identified in our February 1 memorandum, the Government Reform Committee also seeks certain other records from your files. Please review your White House "records,"¹¹ For purposes of responding to the subpoena, please refer to the definition of "White House Travel Office matter" found in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). and retrieve

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2. all calendars, "phone records (including message slips, phone logs, pages or any White House record of phone calls)" for the period May 1, 1993 through July 31, 1993, and May 1, 1995 through November 30, 1995.

Although this request is very similar to the December 19, 1995 request previously sent to you by the Counsel's Office, please be aware that it is broader in scope and seeks records created over a longer period of time. You do not need to provide any documents which have already been produced to the Counsel's Office in response to the December 19, 1995 request. However, it is extremely important that you conduct a thorough search of your records to determine whether you possess any additional responsive material. All such records should be provided to Associate Counsel Elena Kagan in Room 125 OEOB no later than February 7, 1996. If you have any questions regarding the House subpoena, please call Special Counsel Jane Sherburne (6-5116). **EE** DISTRIBUTION LIST

Margaret Williams
Bruce Lindsey
Patsy Thomasson
Catherine Cornelius

FEBRUARY 8, 1996

MEMORANDUM FOR:GEORGE STEPHANOPOULOS

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT:Additional Records Subpoenaed by the House Government Reform & Oversight Committee

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February 12, 1996.

If you have any questions regarding the House subpoena, please call Special Counsel Jane Sherburne (6-5116).

FEBRUARY 8, 1996

MEMORANDUM FOR: JENNIFER O'CONNOR

FROM: JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT: Additional Records Subpoenaed by the House Government Reform & Oversight Committee

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February 12, 1996.

If you have any questions regarding the House subpoena, please call Special Counsel Jane Sherburne (6-5116).

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DRAFT -- FEBRUARY 8, 1996

MEMORANDUM FOR:MACK MCLARTY

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT:Additional Records Subpoenaed by the House Government Reform & Oversight Committee

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FEBRUARY 8, 1996

MEMORANDUM FOR:TODD STERN

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT:Additional Records Subpoenaed by the House Government Reform & Oversight Committee

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February 12, 1996.

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FEBRUARY 8, 1996

MEMORANDUM FOR:JACK KELLY

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT:Additional Records Subpoenaed by the House Government Reform & Oversight Committee

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FEBRUARY 8, 1996

MEMORANDUM FOR:LEON PANETTA

FROM:JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

SUBJECT:Additional Records Subpoenaed by the House Government Reform & Oversight Committee

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DRAFT -- FEBRUARY 2, 1996

MEMORANDUM FOR: ALL PERSONS ON ATTACHED DISTRIBUTION LIST

FROM: JOHN M. QUINN
COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

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Leon Panetta
Jack Kelly

RE

DRAFT -- FEBRUARY 2, 1996

MEMORANDUM FOR: ALL PERSONS ON ATTACHED DISTRIBUTION LIST

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COUNSEL TO THE PRESIDENT

JANE C. SHERBURNE
SPECIAL COUNSEL TO THE PRESIDENT

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1. "[a]ny records related to the White House Travel Office matter²² For purposes of responding to the subpoena requests, please use the definition of "White House Travel Office matter" appearing in the attached "Definitions and Instructions" of the Committee subpoena (see Attachment 1). or the White House Project;"³³ For purposes of responding to these requests, the term "White House Project" refers to an endeavour which "involved both improving the 'staging' of Presidential events as well as finding a way to utilize excess Presidential Inaugural Commission funds for outsourcing White House assistance or providing assistance to the White House." that were created as of January 11, 1996; and

2. all calendars, "phone records (including message slips, phone logs, pages or any White House record of phone calls)" for the period May 1, 1993 through July 31, 1993.

Although this request is very similar to the December 19, 1995 request previously sent to you by the Counsel's Office, please be aware that it is broader in scope and seeks records created over a longer period of time. You do not need to provide any documents which have already been produced to the Counsel's Office in response to the December 19, 1995 request. However, it is extremely important that you conduct a thorough search of your records to determine whether you possess any additional responsive documents. Any such material should be provided to Associate Counsel Elena Kagan in Room 125 OEOB no later than February 7, 1996.

If you have any questions regarding the House subpoena, please call Special Counsel Jane Sherburne (6-5116). **DD** DISTRIBUTION LIST

Mack McLarty
George Stephanopoulos
Todd Stern
Jennifer O'Connor

*March 30, 1998

MEMORANDUM FOR DPC/NEC PRINCIPALS

FROM: ELENA KAGAN AND SALLY KATZEN

SUBJECT: BACKGROUND ON H-1B VISA ISSUES

There have been increasing reports of skills shortages throughout the economy. The information technology industry is the most vocal and visible industry to claim a shortage, however, shortages have also been argued for truckers, welders in shipyards, and other such occupations. A study by Virginia Tech (for the Information Technology Association of America) claims that there are 350,000 job vacancies in the information technology industry nation-wide; the Washington Post reported there are 19,000 such jobs unfilled in Virginia. While these are signs that there could be problem, several informed observers have questioned the severity of the short-term "crisis" while also acknowledging that the demand for workers with IT skills has been increasing. Indeed, some of our federal agencies are reporting difficulties hiring IT workers (for Y2K and other IT projects).

One way in which companies can alleviate such short-term "skills shortages" is through the H-1B visa program. The H-1B visa category allows foreign "specialty workers" (those with a BA or equivalent) to work temporarily in the U.S. The visas are issued for a 3-year period, and almost always renewed for an additional 3-years. More than forty percent of those who enter the U.S. through the H-1B visa program end up in one of the permanent visa programs. There is no way to determine how many overstay their visas, and thus remain to work illegally. The H-1B visa cap of 65,000 per year was reached for the first time last year. INS estimates that the cap will be reached by May or June of this year.

The top ten users of H-1B visas are job contractors who employ foreign workers and who provide personnel to the high-tech industry. Nevertheless, INS estimates that only about one-half of the applications submitted are for computer-related jobs; other occupations include physical and occupational therapists, academic researchers, and other occupations where there is not necessarily evidence of a skills shortage. Currently, there is only a nominal processing fee for each application and there is no requirement that the employer recruit U.S. workers or agree not to lay-off a U.S. worker in the same position, prior to hiring the foreign worker.

In thinking about how to address the question of raising the H-1B cap to meet the demands of the IT industry for more skilled workers, the Administration has developed three guiding principles:

- *We must train American workers to meet the demands of our rapidly changing economy;
- *We must reform the H-1B visa program to target its usage to genuine skill shortages, and thus better protect American workers; and
- *We would consider temporarily raising the annual H-1B cap as part of a comprehensive package that includes reform of the H-1B program and a long-term solution to future employer needs for skilled workers.

Action Forcing Events

On March 6, Senator Abraham introduced a bill (S. 1723, "The American Competitiveness Act"; co-sponsored by Hatch, McCain, DeWine, and Specter) that would permanently increase the annual H-1B cap. His bill also contains a scholarship program. This bill is scheduled for mark-up on Thursday, April 2.

On Friday, March 27, Senator Kennedy (along with Senator Feinstein) introduced a bill that would temporarily increase the H-1B cap to 90,000 (phased back to 65,000 after three years). In addition, the Kennedy proposal includes (1) a loan program designed to address the need to increase high-tech skills of American workers and (2) reforms to the H-1B program that would target its use to genuine skill shortages. [Note that we were asked for a statement last Thursday (when Kennedy and Feinstein announced their intention to introduce the bill) and we provided the attached Questions & Answers.]

Current Legislation

The three major components of the Abraham and Kennedy bills relate to the size and duration of the increase in the H-1B cap; reforms in the H-1B visa program; and education and training.

Facts on the Abraham Bill (S. 1723)

Increase in the Cap

*Would increase the annual cap on H-1B visas to about 100,000 in FY 1998, to about 125,000 in FY1999 (taking into account the 10,000 visas under the new H-1C category);

*The increases would be permanent;

*Creates a new temporary visa category (H-1C) with a cap of 10,000 specifically for health care professionals;

Reforms to H-1B Program

*No reforms to the H-1B program;

Enforcement

*Increases the penalty for willful violations of the H-1B program, but eliminates penalties for less than willful violations;

*Allows DOL to conduct random inspections of willful violators (for 5 years), but does not appropriate additional money to do so;

*Weakens the current "prevailing wage determination," which requires that H-1B visa holders be paid the higher of the prevailing or actual wage to similarly employed workers. The bill stipulates that factors such as years of experience, academic degree, institution attended, grade point average, publications, and personal traits deemed essential to job performance be considered;

Education/Training

*Authorizes \$50M be added to the State Student Incentive Grant (SSIG) program to create scholarships for low-income students majoring in mathematics, computer science, and engineering; the bill provides for dollar-for-dollar matching of funds by states;

*Authorizes \$8M for the Secretary of Labor to create an Internet talent bank.

Facts on the Kennedy Bill

Increase in the Cap

*Increases the cap temporarily (to 90,000 for three years beginning in FY 1998; and back to 65,000 in FY 2001 and thereafter);

*Off-sets the increase in the H-1B program (over 65,000) with decreases in the H-2B visa program (for temporary unskilled, non-agricultural workers; note: it has never reached its cap);

*Caps the number of health care workers in the H-1B visa program at 5,000;

Reforms to H-1B Program

*Prior to obtaining an H-1B visa, employers must attest to having attempted to recruit U.S. workers;

*Prior to obtaining an H-1B visa, employers must attest to not having laid off a U.S. worker within 6 months of having filed, and to commit to not doing so for 90 days after filing for the visa;

*Reduces the maximum length of stay on an H-1B visa from 6 to 3 years;

Enforcement

*Includes benefits and other non-wage compensation in the determination of the prevailing wage;

*Provides additional enforcement power to the Secretary of Labor;

Education/Training

*Establishes a loan program (\$10,000/person) to enable individuals to obtain training necessary for high-tech industries;

*Provides seed grants to assist in creating "Regional Skills Alliances" between employers, labor organizations, state and local government, training institutions, etc. These Alliances are designed to help industry organize the labor market to meet their needs by increasing the skills required for employment in specific industries or occupations and/or assessing and developing strategies for addressing critical skill needs at broad geographic levels;

*Levies a user fee of not more than \$250 per application to administer the H-1B visa program; fund the loan program and the Regional Skills Alliances; and help fund enforcement activities associated with the program.

The differences between these two proposals are significant. First, the Kennedy proposal provides a temporary increase of the H-1B cap to 90,000 in the first year (to be phased out after three years); Abraham proposes a permanent increase to 125,000 (after two years). Also, while the Kennedy proposal includes all of the reforms to the H-1B program previously endorsed by the Administration (no lay-off provision; recruitment requirement; and

reduction in maximum length of stay from six to three years); the Abraham bill does not contain any reforms of the H-1B visa program; in fact, it weakens the existing program by eliminating penalties for less than willful violations and by essentially repealing the prevailing wage determination requirement.

Legislative Setting

According to Kennedys staff, his legislation is intended to offer a credible substitute to the Abraham bill for Senate Democrats who may be interested in temporary "relief" for the IT industry. Kennedys strategy is to try to present a united Democratic front, and thus Senator Feinsteins support is critical. While Kennedy is trying to get a few Republicans on board (Kyl and Grassley are the most obvious ones from the Senate Judiciary Committee), all of the other Republicans on the Judiciary Committee support Abraham.

According to Kennedys staff, Feinsteins primary concern is that the increase in the number of H-1B visas will result in more permanent immigrants -- both legal and illegal. As a result, she favors expanding DOLs investigative authority and very much believes that any increase in the caps should be temporary. Reflecting industry concerns, she has some doubts about the H-1B reforms.

While we do not have details, we understand that Feinstein has been talking with the two Republicans who have chosen not to sponsor Abrahams bill about a possible compromise between Abraham and Kennedy. Apparently the sticking point for Kyl, Grassley, and Feinstein is that Abrahams bill would permanently increase the number of visas, and that Kennedys bill includes the H-1B reforms (they are not as concerned about the increased enforcement).

There are two schools of thought on the position of the IT industry -- (1) that the companies really want an increase in the cap, and thus would be willing to cut a deal with Kennedy if the Abraham bill stalls; or (2) that the companies want the increase, but not at the cost of H-1B reforms. As a result, they may not want to deal with Kennedy and would rather push for the Abraham bill, even if it risks a veto.

The AFL-CIO has weakly endorsed Kennedy -- i.e, they would not oppose a small, temporary increase in the cap as long as it is accompanied by increased training and education and reform of the H-1B program. According to Kennedys staff, the AFL-CIO has made clear that they would not accept a legislative alternative that did not include H-1B reforms.

Issues for Consideration

In deciding the Administrations position with regard to the H-1B visa issue, there are essentially three pieces to consider: increasing the number of H-1B visas, training, and reforms to the H-1B visa program.

Increasing the Number of H-1B Visas

Increasing the number of visas is the primary thrust of the IT industry. In contrast, organized labor will only accept a small, temporary increase in the number of visas if it is accompanied by reforms to the H-1B visa program and education and training of American workers. If the cap on the number of visas is raised, the question is how many additional

visas and the duration of increase. A further question is whether the additional visas can, or should, be targeted to the IT industry? (Although this might be difficult because many IT positions are actually in non-IT industries, such as banking and finance.)

Training

Most everyone agrees that an increase in the number of H-1B visas should be accompanied by a substantial education and training effort. And both the Abraham and Kennedy bills include attempts to encourage more Americans to obtain such training (particularly for jobs in the IT industry). Currently, the Kennedy bill includes a \$250 application fee for H-1B visas that would fund a loan program and the creation of Regional Skills Alliances. Questions to consider include: Is it appropriate to impose a fee to be used for training? Is the training component in the Kennedy bill substantial enough to "compensate" (either alone or in conjunction with the H-1B reforms) for the increase in the cap?

In addition, we might consider whether we should also be pursuing a non-legislative training strategy. The IT industry already does a considerable amount of education and training (for example, several companies have partnered with community colleges, or adopted an elementary or secondary school to upgrade their science and technology equipment). Can, or should, we use the "bully pulpit" or our willingness to sign any bill to get IT companies to invest more in developing long-term solutions to the growing demand for IT workers (such efforts might include expanding the current efforts of the IT industry; expanding the involvement of the IT industry in "school-to-work" efforts; and/or encouraging underrepresented groups to pursue careers in information technology). How can we leverage the training organized labor is doing to get results in this area?

Finally, we need to consider whether it is appropriate to impose more training obligations on firms not in the IT industry. If not, should the IT industry get an advantage in receiving H-1B visas? If we should impose more training on non-IT firms, how do we accomplish it?

Reforms to the H-1B Visa Program

The crux of the negotiations with the IT industry over the Kennedy bill will be the H-1B reforms. The Administrations position has been that these reforms are critical to our three-part strategy, for without these reforms, employers will still be able to hire foreign workers at lower wages, without recruiting U.S. workers, and even if that means laying off U.S. workers. Also, according to the INS and DOL, if these reforms were enacted, the pressure on the H-1B cap would be greatly reduced (because the visas would only be used when there is a genuine labor shortage). Organized labor also views the reforms as essential if the cap on the number of visas is to be raised.

The IT industry is very opposed to these reforms. They argue that given the broad categories of workers used by DOL, a no lay-off provision could disrupt normal, non-abusive, hiring and firing decisions. And they object to a recruit and retain requirement because they will then be subject to the Labor Departments views on what is, or is not, proper recruitment.

The three reforms currently contained in Kennedys bill were sought by the Administration in 1993. Should we continue our insistence on these reforms? Are there others that we have

not considered?

H-1B Testimony Observations/Comments

The testimony is almost identical to the draft document prepared by Seth Harris for Elena Kagan except for the recommendation. The other agencies-- INS, Commerce, and State-- recommended a different position, which DOL stated they would go along with the other agencies recommendation if it was accompanied by "increased efforts to expand access for US workers to get IT jobs.

As far as I can tell, the entire process which is used by DOL for the permanent program is contained in regulations, not statute. The statute states that DOL must determine and certify that there are not sufficient US workers available and employment of an immigrant will not adversely affect US wages and working conditions.

The H-1B program does not require this massive process determination. DOL can only look for completeness and obvious inaccuracies and must certify within 7 days of filing the application.

Given, this there should not be a backlog in H-1B applications and DOL should have no reason to charge a fee. Hence, there is no mention of program streamlining.

00 *MEMORANDUM FOR ELENA KAGAN AND SALLY KATZEN

FROM: JULIE FERNANDES AND CECILIA ROUSE

SUBJECT: ASSESSMENT OF H-2A "IDEAS INVENTORY"

DATE: September 11, 1998

Attached is our assessment of the positions of USDA and DOL regarding the proposals put forth in DOLs "ideas inventory." The shaded boxes indicate important proposals for which there is agency disagreement and thus should be discussed at today's meeting. We have also attached a list of the current program requirements that includes definitions of the most important terms.

In order to better understand the agencies positions, it is useful to understand the underlying policy tensions. Growers see themselves as having a choice between three categories of workers: legal U.S. workers, illegal workers, and H-2A workers. Which category they draw from is almost exclusively determined by total cost. For example, if the total cost of hiring a U.S. worker (including wages, taxes, housing, etc.) is higher than the total cost of hiring an H-2A worker, the grower will hire the H-2A worker. Therefore, the total compensation offered by the H-2A program becomes the effective total compensation ceiling for U.S. workers. In addition, the presence of large numbers of illegal farmworkers distorts the labor market such that the growers response to an inability to find sufficient legal U.S. workers is to hire illegal workers, rather than increase wages or improve working conditions. Thus, though we may want to require fair wages and working conditions in the H-2A program, if the cost of using the program is too high, the growers will hire undocumented workers.

USDA's goal is to provide a steady, reliable source of farmworkers for U.S. growers. USDA believes that the domestic labor force can never completely satisfy the labor needs of agriculture, particularly during peak times, and therefore there will always be a need for temporary foreign agricultural workers. In a world in which the INS is increasingly cracking down on the employment of undocumented workers, the USDA (and the growers) would prefer that the foreign workers that they employ be authorized to work. Their goal is thus to set a wage (or total compensation) floor that is low enough that growers will readily use the H-2A program (rather than hire undocumented workers), but that is high enough to continue to attract existing U.S. farmworkers. However, they believe that an H-2A program that would set the wage (or total compensation) floor high enough to attract many more U.S. workers would drive growers into the illegal labor market.

DOL is concerned that a low wage (or total compensation) floor becomes a low ceiling for U.S. workers and therefore hurts these already impoverished workers. They are not as convinced that the domestic labor force could never satisfy growers needs at a reasonable wage; rather, they argue that agricultural wages have been kept artificially low because of the large presence of undocumented workers. Labor believes that if agricultural wages were allowed to rise, additional U.S. workers would be willing to work in agriculture. They also assert that we can do a better job of facilitating matches between workers and employers that would give domestic farm workers more stable employment and growers access to a steady supply of workers.

As you read through the following list of proposals, you will notice that in many areas (e.g., wages, housing, transportation) the issue is whether the proposal increases the total cost to the employer or shifts those costs to the government or the farmworker. USDA generally opposes reforms that would increase grower costs. The Labor Department generally opposes reforms that transfer costs to the government or the farmworker, and favors reforms that aim at improving labor conditions or wages for U.S. and foreign farmworkers. Because the focus is on total costs (with wages and housing being the most significant areas of concern) we cannot decide on individual reform components in isolation.

Requirements (and Definitions) under the Current H-2A Program

*Recruitment: The agricultural employer must engage in independent positive (i.e., active) recruitment of U.S. workers, including newspaper and radio advertising in areas of expected labor supply. Such recruitment must be at least equivalent to that conducted by non-H-2A agricultural employers to secure U.S. workers.

*Wages: Employers must pay H-2A workers the "adverse effect wage rate" (AEWR), the applicable prevailing wage rate, or the statutory minimum wage rate, whichever is higher. The AEWRs are the minimum wage rates which the DOL has determined must be offered and paid to U.S. and H-2A workers, and they are established for each state. The region- or state-wide AEWR for all agricultural employment for which H-2A certification is being sought, is equal to the annual weighted average hourly wage rate for field and livestock workers (combined) for the region as published annually by the USDA. Some 1998 AEWRs: California, \$6.87; Florida, \$6.77; Georgia, \$6.30; Hawaii, \$8.83; Kentucky, \$5.92; and Ohio, \$7.18. The AEWRs are designed to prevent the employment of these nonimmigrant alien workers from adversely affecting the wages of similarly employed U.S. agricultural workers.

*Housing: The employer must provide free and approved housing to all workers, both foreign and domestic, who are not able to return to their residences the same day.

*Meals: The employer must provide either three meals a day to each worker or furnish free and convenient cooking/kitchen facilities. If meals are provided, then the employer may charge each worker a certain amount per day for these meals.

*Transportation: The employer is responsible for the following types of transportation for workers: 1) After a worker has completed fifty percent of the work contract period, the employer must reimburse the worker for the cost of transportation and subsistence from the place of recruitment to the place of work; 2) The employer must provide free transportation between any required housing site and the work site for any worker who is eligible for such housing; 3) Upon completion of the work contract, the employer must pay return transportation to the workers prior residence or transportation to the next job.

*Workers Compensation Insurance: The employer must provide Workers Compensation or equivalent insurance for all workers, both foreign and domestic.

*Three-fourths Guarantee: The employer must guarantee to offer each worker employment for at least three-fourths of the workdays in the work contract and any extensions. In applying this guarantee and determining any additional wages due, the following facts must be established: 1) The beginning and ending dates of employment; 2) The number of workdays between the established beginning and ending dates of the guarantee period; and 3) The hours of worktime for the guarantee. The guarantee is then established by computing seventy-five percent of the established total hours of work time in the contract period. Note that the employer may not count any hours offered on such days in which the worker refused or failed

to work.

*Fifty Percent Rule: The employer must employ any qualified U.S. worker who applies for an available job until fifty percent of the contract period has elapsed.

*Tools and Supplies: The employer must furnish at no cost to the worker all necessary tools and supplies, unless it is common practice for the worker to provide certain items.

*Labor Dispute: The employer must ensure that the available job for which the employer is requesting H-2A certification is not vacant due to a strike or lockout.

*Certification Fee: A fee will be charged to an employer granted temporary alien agricultural labor certification. The fee is \$100, plus \$10 for each available job certified, up to a maximum fee of \$1,000 for each certification granted.

*Farm Labor Contractors (Crewleaders): A farm labor contractor is an organization or entity that either supervises, recruits, transports, houses, or solicits farm labor other than the owner of the work site. Bona fide registered farm labor contractors may be eligible to apply for and receive H-2A certification, although they generally deal with domestic laborers. Farm labor contractors would be required, as employers, to provide all the minimum benefits specified by the H-2A regulations, including the three-fourths guarantee and the fifty percent rule.

☐☐ Reform Proposal

WH

USDA

DOL

Worker Recruitment

Require "positive recruitment" of U.S. farmworkers by growers only in areas where DOL finds that there are a significant number of qualified workers willing to make themselves available for employment at the time and place needed.

Y

okay

DOL implemented this administrative change.

Count as "available" for employment only those U.S. workers who are identified by name, address, and SSN

Y

okay

DOL implemented this administrative change.

Post employers H-2A job orders on Americas job bank

Y

USDA would not oppose.

DOL proposal; requires job order simplification.

Strengthen the MSPA program of registering farm labor contractors to require bonding; allow H-2A employers to require bonding as a condition of employing a farm labor contractor.

Y

DOL and USDA agree to support this.

Allow H-2A growers to include a bonding requirement for FLCs they employ.

Y

DOL and USDA agree to support this (essentially the same as the previous proposal).

Eliminate the requirement that farm labor contractors must be used by H-2A growers if the use is the prevailing practice in the area.

N

USDA generally wants more flexibility for growers, however they are unlikely to strongly oppose DOLs opposition.

DOL strongly opposes because the goal is for the H-2A program to track prevailing practices in areas of labor protection.

Provide an exception from current program requirement to use FLCs for any FLC who has a demonstrated history of employing illegal workers or other serious labor abuses.

Y

USDA agrees.

DOL regulatory initiative.

Require use of FLCs as recruitment mechanism whenever use is "common" or "normal" (not prevailing) in an area.

N

USDA will likely oppose because grower regulations should involve the highest standard.

DOL generally supports prevailing practice. This is not likely an issue about which DOL will take a strong position.

Require payment of competitive rates for FLC services.

Employment Eligibility Verification

DOL work with Congress and other affected agencies to develop a reliable means of verifying individuals authorization to work as they are hired.

Y

USDA would likely agree because of their goal to decrease growers dependence on undocumented workers as long as growers had increased access to H-2A workers.

DOL agrees.

Create a national employment eligibility verification system so that employers can check on the legal status of domestic workers who are hired during the H-2A process.

Y

INS currently has a pilot program to do just that which we support and has encouraged growers to participate in the pilot.

Require growers using the H-2A program to use INS pilot employment eligibility verification system.

Y

USDA would likely agree as part of an overall package.

DOL would likely agree.

Growers only responsible for recruiting and hiring farm workers in the U.S. through the DOL-administered Registries (and contacting former employees); Registries are responsible -- and have only 14 days -- to locate, contact, verify employment eligibility, and refer U.S. workers to growers seeking foreign farm workers; failure to refer timely or to refer sufficient workers allows direct application for workers to Secy of State.

N

USDA likely supports this provision because it reduces the burden on employers.

DOL hates this provision because it leaves the burden of recruitment entirely to the Federal government.

Secy of State authorizes additional H-2A workers if Registry-referred workers fail to report; are "not ready, willing, able, or qualified" to do the work; or, abandon or are terminated from employment.

N

USDA likely supports this provision because it provides growers with quick access to H-2A workers if they have cannot recruit U.S. workers through the registry.

DOL would likely hate this provision because, again, it centralizes all recruitment through the Registry and absolves growers of any additional recruitment before applying for H-2A workers.

Pilot test new Registry of available U.S. farm workers; growers share responsibility for positive recruitment of U.S. farm workers.

Y

USDA would likely support a pilot of a mechanism to facilitate the hiring of U.S. workers for growers.

DOL supports a pilot of such a registry (as long as growers continue to share part of the responsibility for recruitment).

Require employers "positive recruitment" to include: providing an 800 contact telephone number and accepting "collect" calls from worker job applicants; contacting other potential employers to link a series of job opportunities; and developing a long-term recruitment plan to reduce dependence on foreign guestworkers.

N

USDA would likely oppose such positive recruitment measures because it increases the costs to employers.

DOL would likely support these measures, but are unlikely to require that they be part of a final package.

H-2A workers covered by the MSPA, but disclosure only required at time of visa issuance.

N

USDA likely supports this measure.

DOL supports having H-2A workers covered by MSPA but likely believes that the workers should be informed of their rights when recruited rather than at the time of visa issuance (which could be after the worker has incurred significant costs).

DOL rulemaking regarding possible consolidation of agricultural job orders in the Interstate Clearance System.

Y

USDA agrees.

DOL agrees

Productivity Standards

H-2A employers allowed to set minimum production standards after a "3-day break-in period."
?

Employer-established productivity standards and quality requirements should be permitted only if they are the prevailing practice among non-H-2A employers, are bona fide, objective, justifiable, fully disclosed and implemented on a fair and equitable basis.

USDA generally opposes any additional regulations or restrictions on growers and would therefore likely oppose this idea.

DOL would likely support this idea as it is aimed at protecting U.S. workers.

Experience (and related) Requirements

H-2A employers should be allowed to specify "agricultural experience" as a condition for hiring U.S. farm workers.

USDA would likely support because it ultimately gives the growers more flexibility in who they hire.

DOL would likely oppose arguing that it gives growers too much discretion for jobs that generally do not require substantial experience.

Disallow job qualifications, experience and reference requirements unless they are the prevailing practice among non-H-2A employers and are otherwise job-related and bona fide.

USDA would likely oppose for the same reasons that they would support specifying "agricultural experience."

DOL would likely support for the same reasons they would oppose specifying "agricultural experience."

Allow H-2A workers to move from one certified H-2A employer to another, with the final employer responsible for return transportation costs.

Y

According to DOL, this is current law.

Prohibit H-2A job orders that consolidate seasons and different crops.

USDA would likely oppose because consolidation would potentially decrease costs to growers by allowing them to group together and reduce the number of individual applications.

DOL would likely support because it protects U.S. farm workers by requiring growers to submit individual applications.

Prohibit use of the H-2A program in designated labor surplus areas.

N

USDA may not disagree in theory but would likely be concerned that the designation of a labor surplus areas would not necessarily reflect the short-term labor needs of particular growers with particular crops.

DOL would support this in theory, however it would likely have concerns about how areas are designated.

Wages and Costs

Revise H-2A regulations regarding the 3/4 guarantee to remove incentives to growers to overestimate the contract period.

Y

Agrees.

Agrees.

Consider applying the 3/4 guarantee incrementally during the contract period.

N

Oppose.

Opposes.

Eliminate the 3/4 guarantee

N

Doesnt like the 3/4 guarantee b/c wants growers not to have to pay workers if their crop is disappointing (less work in fact than they anticipated). However, they understand that this is a more generous rule than under the MSPA (the statute that governs non-H2A farmworkers) and thus agrees that this reform is no good.

Opposes the elimination of the 3/4 guarantee (b/c protects farmworkers by ensuring that the work that they are promised in the contract is provided, thus allowing them to make fairer judgments when choosing between jobs). However, not sure that 3/4 is a magic number.

Modify the 3/4 guarantee to allow H-2A growers to limit the contract period to "duration of crop activity" and terminate the contract period offered due to changes in market conditions.

N

Agree that effectively eliminates the 3/4 guarantee.

Agree that effectively eliminates the 3/4 guarantee.

Eliminate AEWR and instead require payment of 105% of prevailing wage for crop in the area.

Yes. They are in favor of eliminating the AEWR b/c it provides a wage higher than the prevailing wage for some H2A workers. USDA does not agree that the prevailing wage is depressed by the presence of illegals in the workforce, but does not object to a small sweetener to the prevailing wage to replace the AEWR (like the 105% proposed by Wyden)

No. The AEWR is calculated to compensate for the presence of illegals that depress the prevailing wage rate. It calculates the required wage as the state-wide average of all non-managerial farmworkers, thus dispersing the impact of illegals. If the wage is calculated based on 105% of prevailing, it will still be a depressed wage in those industries or areas where the presence of illegals is large. However, DOL agrees that the AEWR is a bit of an odd way to calculate, and that there is no magic to it.

They want some way to calculate the wage that compensates both for the presence of illegals (wage depression) and for the fact that growers do not pay H2A workers FICA/FUDA (approx. 8%). AEWR may not be magic, but 105% of prevailing does not even get the wage = to that of non-H2A workers.

Eliminate AEWR and require payment of the prevailing wage for the crop in the area.

USDA likes this option. They want the H2A wages to be the same as the prevailing wage in the crop and area. They dispute that wages are depressed b/c of the presence of illegals. In addition, they maintain that if the program requires a higher wage than what is being paid locally; the growers will not use the H2A program and will access the undocumented workforce.

Labor hates this idea, for the reasons above. The wage paid to H2A workers should be a fair wage -- defined as one that compensates for the wage depression caused by the presence of illegals. Labor believes that growers should have to go to the U.S. market first, offer a fair wage and good conditions, and if not successful, access an H2A market that compels them to pay a fair wage under good conditions.

Only require payment of federal minimum wage (not AEWR) as a "training wage" for

inexperienced workers during a training period (in the K).

Another way to undercut the AEWK that USDA likes.
Another way to undercut the AEWK that Labor hates.

Require increases in piece rates to reflect increases in the AEWK.

Y
USDA would likely not like. This would raise the total wage cost.
Labor would like. Most farmworkers are paid by the piece, so a conversion of the piece rate to the AEWK is consistent with their desire to keep or strengthen the AEWK.

Prohibit H-2A employers from increasing productivity requirements to offset increases in the AEWK

Y
USDA would likely not like b/c this would raise the total wage cost and require farmers to set productivity levels early in the season and not allow conditions to change expectations. Labor would like this. It discourages the farmers from changing productivity levels in ways designed to keep the wage low.

Change AEWK methodology to set at 90th percentile of local market wage or 80th percentile of regional market wage.

They are generally opposed to any change that would increase the overall wage cost. However, they may be open to setting the wage at some modest percentage higher than the local prevailing wage. Thus, though these numbers are high, there may be room to work here. Labor is generally in favor of calculations that result in a higher wage, though they see no magic in the AEWK. The conflict with USDA would be over how high to set the percentile.

Apply AEWK to sheepherders.

?
Opposed. Sheepherders are different.
They want more for the sheepherders.

Disallow any wage deductions by H-2A employers that reduce earnings below the highest required wage.

USDA would favor changes along these lines. They want to consider total cost of employing an H2A worker and compare that to total cost of hiring a non-H2A worker (legal or illegal). Oppose. Though Labor is open to discussions that take into account total cost to growers to use the program, they do not want the farmworker wages to be too low.

Prohibit H-2A employers from fixing uniform wage rates across large areas -- states or regions.

?

Reforms to the 50% rule as recommended by OIG.

Y
USDA agrees.
Labor agrees.

Modify existing 50% rule to only require hiring of local workers (that reside within commuting distance) but extend this obligation to the entire period of the contract.

N

Oppose. Blocks out of state U.S. crews from work.

Oppose. same reason.

Eliminate 50% rule except for workers referred through the registries unless there are other substantially similar job opportunities in the area.

Y

Would agree to apply the 50% rule only where equivalent jobs are not available in the area. This is currently the rule where the association in the employer. Also agrees that the 50% rule is good for U.S. workers.

Agrees.

H-2A workers should be covered under the State Unemployment Insurance System

Y

This could increase grower cost, but unlikely that they would oppose this.

Likely favor, though there is a question of whether this would only apply where U.S. farmworkers are covered under state law.

H-2A employers expressly authorized to pay hourly wage, piece rate, task rate, or "other incentive payment method, including a group rate," irrespective of the prevailing payment method.

N

USDA might like this b/c it gives flexibility to growers.

Labor will hate this, b/c they have asserted that the task rate is too variable to be susceptible to a prevailing wage determination. There are also likely problems with the "group rate."

H-2A employers are in compliance with the wage requirements if "the average of the hourly earnings of the workers, taken as a group," equals the required hourly wage.

N

USDA may like this, but fairness concerns weigh against it.

Labor will not like this b/c it allow the growers to pay some workers less than the required hourly wage.

Prohibit payment by "task rate" or other variable rate method of payment.

Y

May not like b/c like grower choice.

Would likely favor. Have spoken out against the task rate.

Protect earnings level when employers convert from a piece rate to an hourly rate.

Y

USDA likely would not oppose, b/c it only holds the rate the same.

Protecting wage rates would seem a good thing to Labor.

For employers converting from hourly rate to piece rate, set piece rate to assure earnings at least 30% above AEWR.

This is another way to sweeten the wage that USDA will likely oppose.

This is another way to sweeten the wage that DOL will like, but it is -- in a way -- difficult to defend (unless you assume that growers are setting piece rates at levels well

below the AEW conversion).

H-2A workers apply for transportation reimbursement to the government (rather than the employer).

This is a shift of cost from the grower to the government. USDA will like this. Labor does not like, for the same reason. However, as long as the cost to the grower remains the same for a U.S. worker (working under fair wages and good conditions) and an H2A worker, DOL will not fight if some overall costs are picked up by the government (as long as the cost is not coming out of their budget!).

H-2A workers may apply to the employer for transportation reimbursement, but employer not obligated to provide such reimbursement.

N

USDA may like this, b/c lowers cost for the grower. However, growers are used to paying transportation costs in this program. This cost is just part of the overall cost, and thus would go into the overall cost calculation (which, according to USDA, determines whether a grower will participate or hire illegals).

DOL will oppose. They want H2A workers to have transportation paid for. However, as noted, they may be amenable to a system that has the government assume some of this cost.

H-2A workers not eligible for transportation reimbursement if distance traveled is less than 100 miles.

?

This is part of the cost calculation. USDA may think that this is a small step in the right direction.

Labor would likely oppose as eroding the transportation guarantee. Not likely a big issue for either side.

Pilot program for transportation advances for U.S. farmworkers.

Y

USDA would likely be open to this.

DOL would also likely be open to this (a small pilot).

Require H-2A employers to provide travel advances to U.S. farmworkers.

Charge fee = FICA/FUDA taxes to finance certain program activities (housing; admin. costs; transportation)

Y

USDA is in favor. The question is how high is the fee.

Labor is not opposed to a fee that would fund certain activities. The question is how high is the fee (more than FICA/FUDA?)

Impose user fees that reflect the cost of the H-2A program.

First, we are not sure how to calculate this cost (particularly, the cost of housing). Even if we could, USDA would be concerned that it would be too high (and thus cost prohibitive for growers to use). They are open, though, to a modest user fee.

As noted, Labor is also open to a user fee. However, it is not clear that they would want

to push for a fee that was a total reimbursement (making it cost neutral for the government). That would surely make it too expensive for growers to use.

Allow H-2A workers to opt out of the employer-provided meal plans.

Unclear how they would react to this.

Labor would likely think this is o.k., b/c under the current system the cost of meals is deducted from the farmworker wages. However, there is some concern about making sure that workers dont opt out and then not have adequate food for the harvest.

Require first time H-2A employers to maintain wages and working conditions previously offered.

USDA would oppose this as restricting grower flexibility.
Labor would likely favor, but it could be hard to administer.

Housing

Apply local or state (rather than federal) housing standards to housing provided by H-2A growers.

USDA would likely favor (local laws could give more flexibility) , but it is just a race to the bottom. They could be convinced that federal standards should apply in a federal program.

Labor would likely oppose. Would want federal standards to apply in this federal program. Also, would assume that federal standards are stricter.

H-2A employers permitted to charge workers up to fair market value for the cost of maintenance and utilities provided.

USDA likes as a way to reduce cost.
Labor hates as a way to erode wages.

H-2A employers can charge workers reasonable amounts (up to \$25 per week) for the cost of maintenance, utilities, repair and clean-up of housing provided.

Same
Same

H-2A employers can charge a security deposit (up to \$50) to protect against "gross negligence or willful destruction of property."

USDA likes as a way to share some costs with farmworkers and make them responsible for taking care of grower-provided housing.

Labor in general would not like, but likely some compromise could be struck on this one.

H-2A employers may require reimbursement (wage deduction) from responsible worker of reasonable cost of repairing damage to housing provided that is "not the result of normal wear and tear."

Y

According to DOL and USDA, this is current law.

Reduced user fee to H-2A growers providing housing.

This is just another way to think about total cost to growers. If we have a user fee, we have to think about what we want it to pay for.

H-2A employers may provide a "minimum housing allowance" in lieu of housing, unless (no earlier than 8 years after enactment) a state Governor certifies that there is not adequate farm worker housing available.

USDA would like as a cheaper way to meet the housing requirement.

Labor hates this. First, there is a shortage of affordable housing generally (which is particularly acute in rural areas). Second, it is unreasonable to expect a migrant worker from another country to be able to rent any housing on his own with a federal voucher.

H-2A employers may provide a "minimum housing allowance" in lieu of housing, but must also arrange for decent housing at the allowance level.

USDA would like this as affording choice to the grower on how to comply with the housing requirement.

This is better than above, but does not address the fact of great shortages of decent, affordable housing in rural areas. Under this system, what happens if housing is not available?

Require growers to provide free housing to all U.S. farm workers (including local workers).

USDA would not like this additional cost burden on the growers.

Labor would like as an ideal, but unrealistic to add this additional burden on growers (unless heavily subsidized by the federal government).

Require H-2A growers to make their housing available for U.S. workers who arrive early.

Cant see the objection to this one.

Labor likely is in favor.

Enforcement

Extend to Wage & Hour the authority to debar violating employers who commit serious labor standards or H-2A program violations.

Y

USDA and DOL agreed to this during our earlier process. Will be part of upcoming rulemaking.

Issue final H-2A regulations.

Y

DOL has agreed to this.

Narrow DOL enforcement to only allow investigations only pursuant to a complaint.

N

USDA may like this, but not sure. It would be difficult for them to argue in favor of less enforcement, when there is so little already.

DOL would hate this. They need more not less enforcement money and tools.

Institute a 12-mo. statute of limitations on complaints

USDA likely would favor.

DOL may think this is o.k.

Provide a "reasonable cause" threshold for investigations.

USDA would likely favor.

DOL may want to reserve the right to do random inspections.

Limit penalties to certain types of violations.

Unclear what this recommendation means.

Institute a three-year and permanent debarment period for repeat violations.

USDA would likely favor.

DOL would likely favor, unless this is substantially less than current law.

Require hiring of former H-2A workers (where allowed) to offset disincentives to complain about labor violations.

USDA would oppose. This too greatly limits grower flexibility in hiring.

Not sure if DOL would see this as an effective tool to offset disincentives to complain about labor violations.

Require disclosure of terms and conditions of employment to be given to workers in their native language in plain language.

Cant imagine opposition, unless it costs a lot.

Labor would likely favor.

More timely initiation and completion of DOL enforcement actions.

We are all in favor of timeliness.

Immigration Management^d

H2A worker ineligible for continued participation in the program if, during the prior 5 years, the worker violates the terms of admission to the U.S.

USDA would not likely have an opposition to this in theory.

DOL would not likely have an opposition to this in theory.

H2A workers admitted to the U.S. have 14 days after termination of employment contract to search for other legal work in the U.S.

Y

USDA would not likely have an objection.

DOL would not likely have an objection.

H2A workers admitted must be issued fraud-resistant identification/work authorization documents.

Y

USDA would not likely have an objection.

DOL would not likely have an objection.

An employer may file for extension of stay to employ an H2A worker already in the country and may legally employ such a worker from the date application is made.

USDA would likely support this idea because it provides growers with easy and quick access to H-2A workers.

DOL would likely oppose this idea because it would allow growers to get around the recruitment requirement.

AG study whether H2A workers timely depart the U.S. after period of authorized employment.

Y

Legalization for H2A workers who complete at least 6 months employment in the U.S. under the H2A program for 4 consecutive years in compliance with program requirements.

N

USDA would not likely oppose this idea. However, it does not advance their goals because

they believe that growers need a ready supply of foreign workers to meet short-term labor needs. Once legalized these foreign farmer workers would likely move into other sectors of the labor market.

DOL is opposed because it a) it gives the employers additional leverage over the workers by empowering them to hold the promise of a green card out to the foreign worker and b) it undercuts our immigration policy.

Require withholding of percentage of H2A workers wages, deposited in accounts reclaimable within limited time period in home country, as incentive to repatriate.

N

USDA supports incentives to repatriate and if they believed that if this would work they would support it.

DOL would likely oppose this because 1) there is no guarantee that the workers would actually receive these wages and 2) there is no evidence that this amount of money would be an incentive to repatriate.

User fee offsetting FICA/FUDA advantage used as repatriation incentive

N

Same position as above.

Same position as above.

Require entry-exit control system for all H2A workers.

Y

If this were possible, USDA and DOL would support it. However, at this time INS is unable to operate an effective exit and entry control system on the land borders.

Other issues

Expand scope of the H2A program to include agricultural -- meat/poultry -- processing employment.

Secretary authorized to establish cap on number of H2A visas issued pursuant to application from "independent contractors, agricultural associations and such similar entities."

Y

USDA would likely support this as long as it was a high cap.

DOL supports this provision since 80% of all H-2A applications are from independent contractors or agricultural associations.

Comprehensive report by AG and Secretaries of Labor and Agriculture.

Y

All H2A employers non-wage practices and benefits should be subject to prevailing practice standards.

USDA will want more flexibility for growers.

DOL would likely favor tying all practices and benefits to prevailing practice standards.

Assure that U.S. and H2A workers are truly allowed to choose their employer

Cap the number of visas available under the H2A program.

See above.

See above.

Administrative Processes

Consolidate DOL certification and INS petition approval into one process administered by DOL
Y

Consolidate responsibility within DOL in Wage & Hour for post-application examination and enforcement of employer compliance with H2A program requirements.
Y

Government -- not employer -- responsible for reimbursing transportation costs of eligible workers.
Y

Require employers H2A labor certification applications to be submitted 45 (rather than 60) days before the employer "date of need."
Y

Reduce lead time for employer applications to 30 (rather than 60) days before "date of need."
Y

Consistently meet 7 day deadline -- after initial receipt of employers labor certification application -- to give written notification to the employer of deficiencies precluding adjudication of the application.

Y

Consistently meet existing 20 day deadline -- prior to employers date of need -- to issue approved certifications

Y

After consolidation of certification and petition adjudication process in DOL, change the law to set deadline for DOL approval of employers application to 7 days before date of need.

Y

Reduce the deadline for employer-provided housing to be available for inspection to 15 (rather than 30) days before the date of need.

Y

Change the current labor certification to one based on employers attestations to comply with program requirements.

?

Unsure how this changes employer obligations.

0.

MEMORANDUM FOR ERSKINE BOWLES

THROUGH:Franklin D. Raines

FROM:Sally Katzen

SUBJECT:Heads-up on the DOL Proposed Harris Trust Rule

We are about to conclude review of a proposed DOL pension rule specifying how insurers should treat investment contracts sold to pension plans that do not guarantee a rate of return. In a 1993 Supreme Court decision between John Hancock Mutual Life Insurance Company and Harris Trust Savings and Loan (a.k.a. "Harris Trust"), the Court found that insurers that sell unguaranteed contracts must act in the best interests of the pension plan and its participants (i.e. they have fiduciary responsibilities). Congress enacted the Small Business Job Protection Act of 1996 to provide a temporary safe harbor for insurers until they can come into compliance. This rule provides that safe harbor (until 1999).

The rule is highly technical and deals with an arcane area of the law (my favorite stuff) -- ERISA, but it involves significant sums of money (at least \$40 billion) and affects large numbers of people. While we believe the rule is balanced and consistent with the intent of the law, there is no way to get it right to everyone's satisfaction. The insurers, led by the American Council of Life Insurance, will oppose the rule, arguing that it favors pension plans. The reaction on the Hill, which has had a tough time balancing competing interests and odd alliances, is likely to be mixed. We expect the issue to get some attention in the business trade press.

Please let me know if you have any questions.

REcc: Maria Echaveste
Rahm Emanuel
John Hilley
Ann Lewis
Thurgood Marshall, Jr.
Sylvia Mathews
Bruce Reed
Gene Sperling
Janet Yellen
Elena Kagan
Victoria Radd
Barry Toiv
Michael Waldman
Kathy Wallman
Josh Gotbaum

Larry Haas

November 7, 1997

THE WHITE HOUSE CONFERENCE ON HATE CRIMES

Date: November 10, 1997
Location: Breakfast - East Room
Conference - George Washington University
Time: Breakfast - 9:30 am - 9:50 am
Conference - 11:30 am - 1:30 pm
From: Bruce Reed/Maria Echaveste

I. PURPOSE

To call national attention to the problem of hate crimes, highlight effective law enforcement and educational strategies to address this problem, and announce significant new federal initiatives to prevent and punish hate crimes.

II. BACKGROUND

You will host a breakfast for conference participants at the White House, make the opening address at the conference, and chair a panel discussion in which the Attorney General, the Secretary of Education, and seven others will join.

In the afternoon, members of the Cabinet and other senior Administration officials will chair a number of concurrent working sessions to examine various aspects of the hate crimes issue. Afterward, the Attorney General will chair a closing panel to discuss ideas and themes from the working sessions. Participants will attend a closing reception at the United States Holocaust Museum.

In your opening remarks, you will make the following policy announcements:

- *Support for legislation to expand the principal federal hate crimes statute to prohibit hate crimes based on gender, sexual orientation, and disability. (The law currently prohibits only hate crimes based on race, color, religion, and national origin.);
- *Creation of hate crimes working groups in every U.S. Attorneys district in the nation to coordinate federal, state, local, and private efforts to respond to and prevent hate crimes;
- *Assignment of more than 40 additional FBI agents and federal prosecutors to enforce hate crimes laws and creation of a Civil Rights Analytical Center to collect data and analyze trends in hate violence.
- *Enhanced prosecution of civil cases, including increased penalties, against perpetrators of housing-related hate-crimes;
- *Improved reporting of hate crimes statistics through the expansion of the National Crime Victimization Survey to include inquiries on hate crimes; and
- *New educational materials, including a Department of Education resource manual on hate

crimes for schools and a Department of Justice website designed for children.

III. PARTICIPANTS

Briefing Participants:

Sylvia Mathews
Rahm Emanuel
Bruce Reed
Maria Echaveste
Elena Kagan
Richard Socarides
Marsha Scott
Jordan Tamagni

White House Breakfast Participants (with speaking role):

Attorney General Reno

Conference Participants (with speaking role):

Vice President Gore
Attorney General Reno
Secretary Riley
Stephen Tracktenberg, President of George Washington University
Officer William Johnson, Retired Boston Police Officer
Chuenee Sampson, Student Duke University
Peter Berendt, Principal, Mamaroneck Avenue Elementary School, NY
Hon. Sheila James Kuehl, President Pro Tempore, California State Assembly
Reverend Samuel Billy Kyles, Monumental Baptist Church, TN
Raymond Delos Reyes, Student, Franklin High School, Seattle, WA
Tammie Schnitzer, Survivor of hate crime, Billings, Montana
Arturo Venegas, Jr., Chief of Police, Sacramento Police Department, CA
Hon. Grant Woods, Arizona Attorney General, AZ

Members of the audience will include approximately 350 leaders from the law enforcement, civil rights, anti-violence, youth, education, and religious communities. Hate crime victims and students from George Washington University will also be in attendance. The event will be broadcast via satellite to over 50 sites throughout the country.

IV. PRESS PLAN

Breakfast - Closed Press.
Conference - Open Press.

V. SEQUENCE OF EVENTS

White House Breakfast Sequence of Events:

- YOU will briefly meet the panel participants in the Green Room.
- YOU will be announced into the East Room accompanied by the Attorney General.
- Attorney General Reno will make welcoming remarks and introduce YOU.
- YOU will make remarks, and then depart.

Conference Sequence of Events:

- YOU will be announced onto the stage accompanied by Vice President Gore, President

Tracktenberg, Officer William Johnson, Student Chuenee Sampson.

- President Tracktenberg will make remarks and introduce Officer William Johnson.
- Officer Johnson will make remarks and introduce the Vice President.
- The Vice President will make remarks and introduce Chuenee Sampson.
- Chuenee Sampson will make remarks and introduce YOU.
- YOU will make remarks, and then take your seat with other panelists. (The Vice President and other introducers will depart the stage.)

*SEE ATTACHED SCRIPT FOR SEQUENCE OF SPEAKERS ON PANEL.

VI.REMARKS

Provided by Speechwriting

VII.ATTACHMENTS

- Sequence of panel speakers and suggested questions.
- Bios of panelists.
- Conference Agenda.
- Background material on hate crimes.

Errors in Hatch Analysis

- Hatch Errors.doc

June 25, 1998

Hatch Errors.doc

To: Bruce Reed, Elena Kagan

C: Jack Lew, Sylvia Mathews, Jon Gruber

From: Joshua Gotbaum

Re: Problems with the Hatch/Feinstein Comparison to McCain

You asked whether Hatch's analysis comparing his bill to S. 1415 is correct. It is not. In general, it sharply overstates the differences between the McCain bill as amended and the Hatch proposal.

It overstates the gross payments that manufacturers will make:

It ignores the effects of the volume adjustment and the price cap agreed to by McCain, which would reduce the 25-year real payments from \$516B (99\$) to \$408B.

Even before taking volume adjustments into account, they confuse real and nominal base payment levels in their comparison spreadsheet 1. The equivalent to \$368 for AGs and \$408 for Hatch is not \$574, it's \$516.

With volume adjustments, we believe that CBO/JCT would estimate (if asked) 25-year real gross payments at \$267 (AG), \$291 (Hatch) and \$408 for McCain with the managers amendment.

An effect of the volume adjustment is also to reduce the effective cost per pack. Rather than \$1.10 (real 99\$), we think it's closer to 66 cents per pack by 2003.

On lookback surcharges, there are several problems with the analysis. The most significant is that it assumes that the companies will pay the maximum lookback surcharge and that they

will do so every year. We think this is extremely unlikely. Neither we nor Joint Tax estimates that the maximum surcharge will be imposed.

It also completely ignores the fact that net receipts available to the government will be reduced by lost income and excise taxes and other offsets. As a result, it overstates the funds that will be available under the Hatch/Feinstein proposal.

There are literally dozens of problems with the bill as drafted (as there were with the initial versions of S. 1415). Nonetheless, it still might be worth negotiating to see if you can pick up 3 more votes.

The attached table summarizes our view of an apples to apples comparison between the three bills.

M E M O R A N D U M

TO: ELENA KAGAN, BRUCE REED

FROM: TOM FREEDMAN, MARY L. SMITH

RE: SUMMARY OF HATE CRIME PROPOSALS AT DOJ/DOE

DATE: AUGUST 6, 1997

SUMMARY

There are basically four main areas in which the Department of Justice is tackling hate crimes: (1) outreach to the community; (2) statistical collection; (3) educational initiatives; and (4) possible legislation. The first three categories each provide some initiatives that could be announced at White House Hate Crimes Conference on November 10. The proposed legislation, however, is more problematic primarily because it creates a new federalized category of hate crimes based on gender bias. DOJ is concerned that the FBI and other parts of DOJ will be overwhelmed because potentially they could be required to investigate each instance of sexual assault. In addition, many of the initiatives discussed below could easily be announced as part of the race initiative.

I. OUTREACH: HATE CRIMES WORKING GROUPS

*DOJ is proposing federal-state-local partnerships that would coordinate the prosecution of hate crimes. Members of the working groups would be the U.S. Attorneys offices, the FBI, state and local law enforcement, state and local prosecutors, schools, and advocacy groups. In addition to prosecuting hate crimes, the groups would seek to increase enforcement of hate crime laws, to maximize reporting of hate crimes, and to educate the public about hate crimes.

*FBI has proposed seeking additional funding in the FY99 budget to add approximately 193 new FBI agents to investigate hate crimes.

II. STATISTICS REGARDING HATE CRIMES

*DOJ currently collects hate crimes under the Hate Crimes Statistics Act ("HCSA"). There is an annual report that comes out. DOJ is checking whether we could announce the numbers at the conference on November 10.

*DOJ is also exploring several possibilities to improve the collection of statistics regarding hate crimes.

III. EDUCATIONAL INITIATIVES

*Northeastern University's Center for Criminal Justice Policy Research reports that approximately 65% of violent hate crimes are committed by boys and young men under the age of 20.

*The Department of Educations Office of Civil Rights is working with the National Association of Attorneys General to develop a manual that will catalog all of the various resources that are available to assist school administrators and teachers in addressing bias crimes and racial and ethnic tensions in school settings.

*Middle-school curriculum entitled "Healing the Hate" (already developed by Educational Development Corporation and funded jointly by DOJ and Department of Education) should be disseminated to schools.

*Middle-school curriculum on hate crimes should be placed on the Department of Educations website.

*Given the statistics that suggest that a large portion of hate crimes are committed by school-age males, DOJ could work with Educations National Center for Educational Statistics to explore mechanisms for collecting information on hate-based violence in schools.

*Elevate awareness of hate-based violence in the educational community through a PSA campaign, conferences, workshops, articles, and the Internet.

IV. PROPOSED LEGISLATION

*At the behest of Senator Kennedy, DOJ is analyzing and refining proposed legislation. The legislation would expand the category of federal hate crimes. Currently, 18 U.S.C. 245(b)(2) prohibits the interference with a persons exercise of certain federally protected rights on the basis of the persons race, color, religion, or national origin.

*The proposed legislation would add a section that prohibits the intentional infliction of bodily injury on the basis of race, color, or national origin.

*The proposed legislation would also add a section that prohibits the intentional infliction of bodily injury on the basis of religion, gender, sexual orientation, or disability.

Problems with the proposed legislation

*There is a potential constitutional problem with the prohibition of hate crimes on the basis of gender, sexual orientation, disability, and, in many instances, religious identity. (There appears to be no constitutional problems with prohibiting hate crimes based on race, color, or national origin.) DOJ recommends that Congress power to regulate interstate commerce is the strongest source of authority to regulate hate crimes based on gender, sexual orientation, disability, or, in some instances, religion. This constitutional problem is not the most pressing problem, however.

*Federalization of criminal conduct typically prosecuted at state and local levels. In DOJ's opinion, the main problem with the proposed legislation is that the possible expansion of 245 to include other categories of hate crimes, most particularly gender-based hate crimes, will overwhelm the resources of the FBI and DOJ. DOJ's memo states: "There is a very real concern that the approximately 6,000 hate crimes currently reported to the FBI each year could be dwarfed by the number of sexual assaults and other allegedly hate-based

crimes that might be brought to the federal governments attention for investigation and possible prosecution under an expanded section 245."

*NOTE: Despite these problems, it seems that Senator Kennedy is inclined to introduce some legislation this fall, possibly before the Hate Crimes Conference on November 10. Unless some sort of solution is worked out regarding the gender-based hate crimes, DOJ has grave reservations but is struggling to come up with some sort of solution.

January 13, 1998

MEMORANDUM TO: JOHN PODESTA

SYLVIA MATHEWS

PAUL BEGALA

RAHM EMANUEL

DOUG SOSNIK

CRAIG SMITH

GENE SPERLING

BRUCE REED

ELENA KAGAN

CHRIS JENNINGS

JANET MURGUIA

RON KLAIN

MELANNE VERVEER

FROM: ANN LEWIS

SUBJECT: DRAFT TALKING POINTS FOR DEMOCRATIC UNITY EVENT

Following are draft talking points for tomorrows event. Please let me know if you have any edits [6-2640]. Attached is also a memo from The Washington Monthly on Republican opposition.

Democratic Unity Event: Talking Points

What is this event about?

The President, the Vice President and Democratic Congressional leaders, along with Democratic Members of Congress, are meeting to discuss their support for federal legislation which will enact the principles of the Health Consumer Bill of Rights into law, and to consider legislative strategies for passage. Leaders of health care groups who support the legislation have also been invited.

Why this event and why now?

*The President met with Democratic congressional leaders before Christmas to discuss a broad range of legislative issues. The Health Consumer Bill of Rights legislation was part of that list. It got some more attention because it has been targeted for defeat by lobbyists and the Republican leadership. As you can see in the enclosed memo, Trent Lott ordered corporate lobbyists to "get off their butts and off their wallets" to organize opposition to the bill.

*This event, which marks the beginning of the 1998 legislative year, will serve as an early demonstration of strong support for this bill, and as an example of united Democratic support for key legislative proposals.

Is this all for the 1998 Democratic agenda ?

*We are working on a Democratic agenda which will be rolled out as we get into the legislative year (which will include issues like education, child care, the environment, etc).

*Keep in mind, this is the very beginning of the legislative year -- Congress hasnt even reconvened yet. We are beginning with the Health Consumer Bill of Rights because it is one of the legislative priorities we will be supporting, and because it has come up against some well financed opposition. We thought it was essential to get out in front and make clear that this is a priority issue for us.

Democratic Unity? Isnt that an oxymoron?

*On issues that matter to working families -- and decent health care is very important to working families -- Democrats are united. The White House and Congressional Democrats agree that it is important to have federal legislation that protects health care consumers.

*The division is within the Republican caucus: we know that many Congressional Republicans support this principle, but their leadership is definitely on the other side.

Are you saying that you wont work with Republicans on this issue?

We invite Republican support. In fact, there is legislation in the House on this issue right now with quite a few Republican co-sponsors. Plus, a number of states with Republican Governors are considering these types of protections for their Health Care consumers. So we think there will be bipartisan support and that eventually it is going to pass.

November 6, 1997

THE WHITE HOUSE CONFERENCE ON HATE CRIMES

Date: November 10, 1997

Location: The George Washington University

Time: 11:30 a.m. -- 1:30 p.m.

From: Maria Echaveste, Bruce Reed

I. PURPOSE

You will convene the first-ever White House Conference on Hate Crimes, a day-long event with over 350 participants to be held at The George Washington University. At the conference, you will announce significant new law enforcement and prevention initiatives to "get tough on hate crimes". The conference will also examine the positive actions that communities are taking and outline the steps we all can take to prevent hate crimes.

The White House Conference on Hate Crimes has three purposes. First, it will call national attention to the serious problem of hate crime in this country and, by highlighting positive community responses, promote unity in addressing the problem. Second, it will demonstrate the Administration's commitment to "draw the line" on hate crimes through combined law enforcement, education, and prevention strategies. Finally, this conference serves as the Race Initiative event for the month of November. Members of the your Advisory Board on Race will participate in the Conference at satellite locations.

II. BACKGROUND

You announced the convening of the conference in your radio address of June 7, 1997.

On the day of the conference, you will host a breakfast for participants in the East Room of the White House and will make an opening address at the conference. After your remarks, you will chair a panel discussion in which the Attorney General, the Secretary of Education, and eight others will join.

In the afternoon, members of the Cabinet and other senior Administration officials will chair a number of concurrent working sessions to examine various aspects of the hate crimes issue. Afterward, the Attorney General will chair a closing panel to discuss ideas and themes from the working sessions. Participants will attend a closing reception at the United States Holocaust Museum.

III. PARTICIPANTS

Briefing Participants:

Sylvia Mathews

Rahm Emanuel

Maria Echaveste

Richard Socarides

Bruce Reed
Elena Kagan
Tom Freedman
Mary Smith

Marsha Scott

Michael Waldman or designee

Event Participants

You will be joined at the conference by the Vice President, the Attorney General and the Secretary of Education. Members of Congress, selected state and local officials, and approximately 350 leaders from the law enforcement, civil rights, anti-violence, youth, education, and religious communities have been invited to attend as participants. There will also be several dozens students from George Washington University in the audience. A complete list is attached.

Hate crime victims will also attend. Participants will include representatives from all 50 states. Thousands more will participate at over 65 satellite-linked events across the country.

IV. PRESS PLAN

The morning and afternoon plenary sessions and the evening reception are open press. The breakfast and the workshops are closed press.

V. SEQUENCE OF EVENTS

Following the event briefing, YOU will proceed to the Green Room on the State Floor to meet briefly with panel participants, including the Attorney General and the Secretary of Education.

YOU will then proceed to the East Room with the Attorney General, who will introduce YOU, and YOU will give brief welcoming remarks. YOU will then depart.

YOU will depart the White House at 11:20 a.m. for The George Washington University.

Upon arrival, YOU will be greeted by President Trachtenberg and then be announced onto the stage with the Vice President.

President Trachtenberg will give brief welcoming remarks and introduce Officer William Johnson.

Officer Johnson will give brief remarks and introduce the Vice President.

The Vice President will give brief remarks and introduce Chuenee Sampson.

Chuenee Sampson will give brief remarks and introduce YOU.

YOU will make remarks.

YOU will lead a panel discussion with the Attorney General, the Secretary of Education, and eight panelists (note that the Vice President will depart after your remarks and will not be a part of the panel).

The Attorney General will open the panel by introducing each of the eight outside panelists and asking each of them to give brief remarks (three minutes each).

YOU will lead a discussion and ask the panelists questions based on the suggested script attached.

The Secretary of Education will suggest the end of the panel discussion.

YOU will depart.

There will be a luncheon for participants, followed by seven working group sessions, followed by another panel lead by the Attorney General and remarks by her.

There will be a reception in the evening for conference participants.

VI. REMARKS

*Provided by Speechwriting

VII. ATTACHMENTS

Conference Agenda

Description of your discussion panel, including suggested script and participant bios

Descriptions of the working groups led by Members of the Cabinet

List of participants

Background material on hate crimes

Suggested background reading

*December 30, 1997

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

Route to: Jack Lew
Frank Raines

Through: Richard Turman
Barry Clendenin

Subject: Tobacco Settlement Spending: FDA & CDC Alternative Spreads

From: Jim Esquea & Marc Garufi ACTION:
Decision
Signature X
Comment
As requested Information

Phone: 202/395-4925
Fax: 202/395-3910
Room: NEOB #7025 Needed By:
Date: / /
Time: : am/pm

Copies to:

Post this Document on HD Intranet? NO

Following up on the tobacco meeting this morning, we have modified the table to address the format suggestion.

We also recommend changing the split of the additional \$330 million for FDA and CDC (which favored FDA) to one that starts out with an initial bigger increase for CDC prevention and phases in the FDA total increase for tobacco over three years.

The tobacco settlement envisions a comprehensive FDA licensing program for tobacco, which the Administration has not fully evaluated. A licensing system would be expensive which is why the settlement proposes \$300 million annually for FDA tobacco enforcement. Given that a comprehensive FDA tobacco/licensing system would take several years to fully implement. We recommend phasing in the FDA increase of \$250 million over three years, while providing funding for HS/CDC Smoking prevention programs.

We note that Elena Kagan of the Domestic Policy Council was uncomfortable with the idea of not "fully funding" the FDA consistent with the tobacco settlement recommendations. Our recommended phased in approach would eventually increase FDA enforcement activities to levels consistent with the agreement AND also fund activities that were recommended in the

settlement but were not funded in our "Modified Settlement Uses" table of this morning.

FYI - - Elena Kagan also noted to Josh Gotbaum today that she and Bruce Reed would be very interested in including a tobacco legislation spending table in the Budget that contained proposed spending levels in both nominal and real terms.

MEMORANDUM TO ERSKINE BOWLES

FROM: Sally Katzen

SUBJECT: Heads-up on Year 2000 Computer Report

This memorandum is to let you know that OMB will send to Congress (and make publicly available) on Monday, September 15th, a quarterly report assessing the progress (or, in some cases, lack of progress) that Federal agencies are making in assuring that their computers will work when the century changes. As noted in the popular press, many computer systems use two-digit dates and will fail to work properly when faced with "00" in the year 2000. Unless these government systems are fixed or replaced, taxes could go uncollected, benefit checks could not go out, air traffic control could be jeopardized, etc. In his August speech on the Millennium, the President said, "I want to assure the American people that the federal government, in cooperation with state and local government and the private sector, is taking steps to prevent any interruption in government services that rely on the proper functioning of federal computer systems."

This is the second quarterly report (mandated by Congress) and it will mark a shift in our assessment. The first report said that agencies were making reasonable progress in fixing their computers. This report, however, states that several (named) agencies are not making sufficient progress, and that a number of other (named) agencies, while making some progress, are still cause for concern. The report states that OMB will use the FY 1999 budget process to assure that agencies are paying adequate attention to this problem.

Press and Hill response will be mixed. Some will say it is good that the Administration is taking the problem seriously, while others will criticize us for not having done more earlier (or even of deliberately painting an overly optimistic picture when we should have known better). All inquiries should to be directed to OMB.

Please give me a call if you have any questions (5-4852).

cc:

Maria Echaveste
Rahm Emanuel
John Hilley
Ron Klain
Ann Lewis
Thurgood Marshall, Jr.
Sylvia Mathews
John Podesta
Bruce Reed
Gene Sperling
Jim Steinberg
Chris Jennings

Don Gips
Elena Kagan
Victoria Radd
Barry Toiv
Michael Waldman
Jack Lew
Ed DeSeve
Josh Gotbaum
Gordon Adams
Ken Apfel
Michael Deich
T.J. Glauthier
Larry Haas

March 5, 1998

MEMORANDUM FOR ERSKINE BOWLES

THROUGH:Franklin D. Raines

FROM:Don Arbuckle
Acting Administrator

SUBJECT:Heads-up on Proposed HHS Protection of Human Subjects Rule

On December 16, 1997, we sent you a heads-up memo on an HHS proposed rule amending its regulations designed to protect women and fetuses involved in Federal research. We are now ready to clear the rule after some delay. In particular, we wanted to ensure that the rule had the concurrence of the Secretary of HHS. She has personally signed-off on the rule and the approach the Department has taken.

HHS intends to issue this rule quietly, without fanfare. I have attached a copy of our December 16 heads-up memo to refresh your memory about the rule. Please call me if you have any questions.

EE

cc: Maria Echaveste
Rahm Emanuel
Larry Stein
Ron Klain
Thurgood Marshall, Jr.
Ann Lewis
Sylvia Mathews
John Podesta
Bruce Reed
Gene Sperling
Elena Kagan
Barry Toiv
Michael Waldman
Josh Gotbaum
Linda Ricci

*1

February 9, 1998

MEMORANDUM FOR SYLVIA MATHEWS

FROM: PETER RUNDLET

SUBJECT: Proposals Related to Higher Education and the Race Initiative

What follows is a survey of the proposals that I was able to canvass from various individuals and offices that relate to higher education and race in general or the Race Initiative in particular. The only piece missing is an update from Mike Cohen of the DPC on the various proposals and projects he is pursuing in this regard. I was unable to make contact with him directly. I will update this once I speak with him.

As you know, Christopher and Maria have proposed of a four-part conceptual framework with which to approach our higher education agenda items for the Race Initiative:

(1) Campus Dialogue: Activities and events designed to foster cross-racial dialogue and reconciliation on college campuses.

(2) Validators: Identify people who can clearly articulate the value of diversity in higher education to the broader general public.

(3) Higher Education Leadership: Encourage higher education leaders to work together and develop a comprehensive strategy to enhance inclusion and diversity on their campuses.

(4) Policy Action: Vigorous Administration policy action that includes litigation, public education, race-neutral and race-conscious approaches to enhancing equal opportunity to higher education, inclusiveness, and diversity.

Although I will not attempt here to fit all of the following proposals into this framework, I believe it is helpful as a reference point, and will be useful once we sit down and determine which of the following we want to pursue, and how. The proposals identified thus far include:

Campus Week of Dialogue. Michael Wenger, in partnership with the Association of American Colleges and Universities (AAC&U), the Urban League, and the Department of Education, is leading the effort to organize a week of dialogues on campuses around the country from April 6-9.

Goals: To more fully engage the higher education community in the Race Initiative and to build bridges between college campuses and the communities in which they are located.

Process: AAC&U anticipates receiving a grant from the Ford Foundation to assist it in working with approximately 35 core campuses. In addition, PIR will reach out to hundreds of colleges and universities, including HBCUs (historically black colleges and universities), HSIs (Hispanic serving institutions), and Tribal Colleges.

Specific Events Proposed

- *One day designated as National Day of Dialogue on college campuses, including Town Hall meetings on campuses, and discussions on race in classrooms.
- *Meetings between campus and community leaders to institutionalize campus-community dialogue.
- *Meetings on campus between student leaders from all racial and ethnic groups to discuss how students can work together to address the challenges of race.
- *Film showings, cultural festivals, joint community service projects on and around campuses.
- *A national Town Hall meeting with either the President or Vice President on the National Day of Dialogue (April 7 or 8), with college students and telecast by C-SPAN or provided by satellite to participating campuses.
- *A national meeting of scholars on racial issues to discuss an appropriate research agenda. (Note: this idea is raised separately below; see the concerns raised there.)
- *As part of or just prior to this week, a meeting between the President and higher education leaders. (Note: this idea is discussed in great detail, below.)

Next Steps: Pulling all of this off will require an enormous amount of immediate work and coordination. Mike Wenger should nail down what burdens the AAC&U and the Department of Education can bear. Then, a meeting with PIR and WH staff needs to take place to discuss priorities and allocate responsibilities. As noted below, if a meeting with the POTUS is to take place, a date needs to be set aside immediately (since he is scheduled to be out of the country for much of March).

Presidential Meeting with Higher Education Leaders. The President would convene a meeting with higher education leaders both to hear their ideas on the Race Initiative, campus diversity and inclusion, and to issue a call to action to them, as outlined below.

Goals

- (1) To encourage the establishment of a formal, coordinated campaign (analogous to the formation of the Lawyers Committee for Civil Rights due to President Kennedys call to action) within the higher education community designed to promote, through words and actions, the values of inclusion and diversity in higher education and to recapture ownership of the public debate over affirmative action in higher education;
- (2) To encourage leaders (and their campuses) to participate in the efforts of the PIR, especially the Week of Campus Dialogue;
- (3) To solicit the leaders ideas on creative, legal approaches toward enhancing inclusion and diversity on their campuses; and
- (4) To initiate strategy discussions with leaders who will be affected by moves by Congress to curb affirmative action through the education reauthorization and appropriations processes.

Process

Scott Palmer has drafted a detailed proposal on the goals and expected outcomes of such a meeting, much of which is included here. He has been working with Hector Garza at the American Council on Education (ACE), as well as other higher education leaders and associations. Mike Cohen would work with Scott to immediately create a core working group of six to ten college and university presidents that will take responsibility for the overall effort and who will help define the mission and process, as well as identify other leaders who should be a part of the larger campaign. Christopher Edley has identified some likely candidates (the presidents of Harvard, Duke, Penn, and the President of the College Board, Dan Stewart) and we have already established contacts through the creation of the High Hopes Program. The ACE and the Leadership Alliance are also likely to be very helpful. A date for the meeting with the President would have to be reserved immediately, as the meeting should take place before the Campus Week of Dialogue (April 6). Christopher Edley suggested that he would meet with Bob Shrum to coordinate a professional communications strategy for the leaders group.

Potential Outcomes

*A coordinated and ongoing campaign to clearly articulate to the American people the values of inclusion and diversity in higher education and to positively address other tough questions of race in higher education, including the proper role of affirmative action.

*A coordinated research agenda on the educational value of diversity, as well as on methods to increase minority graduation rates and strategies to enhance the "pipeline."

*Creation of short- and long-term strategies to increase minority access to higher education, including both race-neutral and permissible race-conscious strategies.

*The development and promotion of on-campus programs designed to improve minority retention, promote positive racial climates, and create positive cross-racial interactions.

*Creation of partnerships between predominately white and minority-serving institutions.

*Greater participation by the whole higher education community -- college and university presidents, deans, faculty, students, and higher education associations and organizations -- in the Presidents Initiative on Race, including the Campus Week of Dialogue.

Next Steps: Convene a meeting to determine whether this is a Presidential priority relative to other Race Initiative demands for the Presidents time. If so, secure a date on the Presidents schedule for a meeting with higher education leaders. Scott Palmer and Mike Cohen should confer with Christopher Edley and others and call a meeting as soon as possible with the core group of higher education leaders who will agree to take responsibility for coordinating the larger effort. Scott and Mike should convene a meeting with White House and PIR staff to create a strategy to carry this out -- to identify key issues for the meeting and to assign responsibilities for necessary staff work. In addition, Eddie Correia should begin to conceptualize a strategy for engaging Congressional leaders on these issues, as we prepare for battles over the DoEds reauthorization and appropriations.

More Discrete Higher Education Events and Proposals:

Release of Affirmative Action in Higher Education Guidance Piece. Individuals from the

Department of Education, Justice, the Counsels office, and I have been working to finalize the Department of Educations Guide on Postsecondary Admissions and Financial Aid Affirmative Action programs. The final internal revisions are being made this week and we expect to solicit comments from outside friends before finally releasing it. The purpose of the guidance is to reinforce the continuing vitality of the Bakke opinion and to make clear what properly-constructed affirmative action requires in order to provide a greater comfort level to those institutions that may have become unduly cautious in their approaches to creating diversity.

Next Steps: Final drafts have been distributed internally. Comments are due by COB on Friday, February 13. A meeting should be held next week that includes relevant White House staff (Sylvia Mathews, Dawn Chirwa, Rob Weiner, Eddie Correia, Elena Kagan, Maria Echaveste, Judith Winston, Christopher Edley, Minyon Moore, and me), as well as Education and Justice officials, to discuss a roll-out strategy for the Guidance. Although the guidance will not be released in time for admissions offices to restructure their policies for this year, an earlier release may assist some institutions before all of their final admissions decisions are made this spring.

Litigation Strategy. Eddie Correia will begin to meet with counsel representing colleges and universities being sued for their inclusive admissions policies. The purpose of the meetings is twofold: (1) to identify cases in which the United States would participate as amicus or intervenor, and (2) to identify creative yet permissible strategies to encourage greater diversity.

Next Steps: Eddie plans to meet with Jane Sherburne, who represents the University of Michigan, soon. Similarly, Maria Echaveste will coordinate with Political Affairs to determine the status of the various state ballot initiatives designed to end affirmative action.

Identification of Race-Neutral/Opportunity-Gap/"Pipeline" Solutions. The Domestic Policy Council, with the assistance of Eddie Correia, Christopher Edley and Scott Palmer, will take the lead on identifying programs designed to increase the percentage of students who attend and complete college. Included in this would be programs designed to prepare students for college and help them pay for it (such as the High Hopes Initiative and Head Start), as well as creative, race-neutral admissions programs (such as aggressive recruitment and outreach and programs like the Texas 10% plan) that will likely increase the number of minorities that attend college.

Next Steps: I understand that Mike Cohen has been working with the Department of Education on producing a document that surveys a variety of inclusive, but race-neutral admissions practices. Pushing this project to a conclusion, vetting the ideas, and then sharing them with the higher education community should be our short-term goal. In any case, the DPC, together with Counsel and PIR, should aim to present a list of potential solutions that the Administration can promote or share with the higher education community.

Research Conference on the Value of Diversity. Some have proposed an academic conference similar to one that the Harvard Civil Rights Project held last spring to discuss current research demonstrating the educational value of diversity. Scott Palmer and Michael Wenger have suggested that such a conference be part of the Campus Week of Dialogue. Others, however, including Christopher Edley, have noted two significant limitations to such a conference: (1) there is little serious social and behavioral science research on the question of the benefits of diversity; and (2) such an event is unlikely to generate

much attention. A less ambitious, though useful, goal would be to encourage educational leaders to support serious research in this area.

Next Step: Determine whether such a conference is desirable. Mike Wenger, Chris Edley, Elena Kagan, and Scott Palmer should make a recommendation on this question. If it is not, add to the Leadership agenda, above, the promotion of serious academic research on these issues.

California Minority Scholarship Fund. In order to counter the effects of Prop 209 in California, the Consumer Attorneys of California, together with the San Francisco Bar Association, have proposed to create a private scholarship fund to pay for outreach programs and minority scholarships. The details of the program are not completely clear (e.g., are the scholarships only for students residing in California? for UC schools only or private California schools? for law school only or for other graduate and undergraduate institutions?), but, if properly administered, would be a legal and effective means for increasing minority enrollment in higher education. Eddie Correia has determined that the program can pass Title VI muster, if the funds are completely privately administered. It has also been determined that the Vice President or a Cabinet Member could speak at a fundraising dinner, with some qualification.

Next Steps: Designate someone to work with the California organizers (Karen Skelton has been working with Ray Bourhis to date) to learn more details about the program and the timing. Then appropriate White House and PIR staff need to determine which Administration officials could attend fundraising dinners and to what extent we give White House or PIR imprimatur to the effort. There is no reason to delay with this effort. Finally, this should be recognized as a promising practice.

Meeting with the University of California President Richard Atkinson. We have received a request by Richard Atkinson for a meeting with the President this Friday, February 13. It has been determined that Maria Echaveste, Minyon Moore, Elena Kagan, Eddie Correia, and Karen Skelton should meet with him when he is here. If Chris Edley is in town, he should attend the meeting as well. Chris Edley says that even though Atkinson is in a difficult political situation with the Board of Regents decision to end affirmative action, he is very much a supporter of the Administrations view on the issue. The purpose of the meeting is to learn more from him about the aggressive outreach program undertaken by UC as well as other insights learned from the recent changes in California.

Next Steps: The above-named individuals should meet with Richard Atkinson this Friday. I understand that Maria is taking the lead in organizing the meeting and coordinating with Atkinson.

The Leadership Alliance. The Leadership Alliance is an academic consortium of 24 colleges and universities, including the nations most elite colleges and universities and historically black institutions, led by Brown University, that have come together to establish a professional development pipeline that gives minority students and professors access to advanced coursework and laboratories in order to encourage and support their efforts to become scientists, engineers and teachers. Essentially, this group is working to enhance inclusiveness and diversity in graduate school. The Alliance has indicated that it is interested in working with the Administration to jointly pursue this mission.

Next Steps: When we meet, we need to discuss ways in which we can collaborate with the Alliance and other higher education associations to make progress in enhancing

inclusiveness and diversity in higher education. Mike Wenger and Scott Palmer should consider the Alliances offer of help in fashioning outreach and leadership efforts.

Conclusion

We should convene a meeting with relevant White House and PIR staff to sort through the various proposals so that we may quickly act on the priorities. In particular, we will have to act quickly on the Campus Week of Dialogue and the Presidential meeting proposals, as they will require the most work.

August 3, 1998

MEETING WITH THE CONGRESSIONAL HISPANIC CAUCUS

DATE: Tuesday, August 4, 1998

LOCATION: Cabinet Room

TIME: 12:30 p.m. - 1:30 p.m.

FROM: Larry Stein

Janet Murguia

I. PURPOSE

To meet with the Congressional Hispanic Caucus in order to touch base and discuss issues of concern.

II. BACKGROUND

The Hispanic Caucus wants to discuss several issues, but will focus attention on three issues which they deem as urgent items to address on their agenda for the meeting with you (See Attachment # 1): (1) Accurate 2000 Census, including census appropriations funding and census education and outreach; (2) Education, including bilingual education and the Riggs (R-CA) bill scheduled for House floor consideration later this week. Also in this category is follow-up on the Hispanic Education Agenda which you proposed in your budget and the possibility of hosting a White House Summit on Staying in School in order to address the issue of high Hispanic drop out rates; and (3) Immigration and Citizenship, including the naturalization backlog, fee increase, and Immigration & Naturalization Service (INS) reorganization. In this area they will also request Administration support for "parity" for Salvadoreans and Guatemalans and other efforts to provide amnesty relief to various groups of refugees.

In addition, the Caucus will raise the issue of Latino Presidential appointments including: Latino judges and U.S. Attorneys; the Special Envoy to the Americas vacancy and State Department appointments; and Federal career workforce issues (See Attachment #2). Other Hispanic Caucus priorities that may be raised if time permits are: telecommunications and the E-rate; development funding for Latin America; Health and minority tobacco issues; Welfare-to-Work rates and Hispanics; the Race Initiative; and issues related to the territories of Puerto Rico and Guam.

1. Census

The Caucus wants the White House to take a strong stand in support of Census appropriations funding. This is an important issue in the Hispanic community, where an estimated 5% were undercounted in the 1990 Census. On Wednesday (7/15), the House Appropriations Committee ignored a Presidential veto threat and voted to approve the Commerce-Justice-State Appropriations bill that provides just six months of funding for Census 2000. This measure would provide \$952 million for preparations for the 2000 Census for FY99. But only half the money would be immediately available. The rest would be withheld until April and could only be released if Congress votes to do so. The House is scheduled to consider the CJS bill on Tuesday. The Caucus as well as other Democrats will be attempting to pass the Mollohan (D-WV) Amendment which will provide full funding and which the Administration supports. The Senate provided the Administrations request for the decennial census.

2. Education

The English Fluency Act, introduced by Rep. Riggs, may come to the House floor this week. This bill would eliminate the existing Bilingual Education and Emergency Immigrant Education programs and replace it with a block grant requiring students to be placed in regular English-language classes after two years, and deny funds to districts for any children remaining in bilingual classes after three years. The bill would also eliminate funding for professional development programs, and would curtail the enforcement powers of the Education Departments Office of Civil Rights.

Members of the Hispanic Caucus have been concerned that you would couple opposition to the Riggs bill with a proposal of your own to reform bilingual education. They feel strongly that Congress should address the program during its scheduled reauthorization next year. Reps. Becerra, Hinojosa and Martinez were each told last week that the Administration did not intend to transmit an alternative to the Riggs bill, unless there was broad sentiment within the Democratic Caucus that one is needed. At present, there is no push from the Democratic Caucus for an alternative bill. We are preparing a SAP that will indicate strong opposition to Riggs, but will stop short of a veto threat. We do not believe we should issue a veto threat without an alternative bill to support. Further, since it is extremely unlikely that the Senate will take up the bill this session even if it passes the House, Senior advisers believe a veto threat is unnecessary as a practical matter.

3. Immigration and Citizenship

Many Hispanic advocates have expressed serious concerns over the naturalization backlog and INSs naturalization fee increases. The dramatic increase in naturalization applications (from 540,000 in FY 1994 to almost 1.6 million in FY 1997), along with the dedication of substantial resources over the past nine months to implement quality procedures, has resulted in an increase in the number of pending applications to nearly 1.9 million as of the end of May 1998. Currently, most applicants are experiencing a wait time of 12 to 15 months, if not longer.

The Hispanic Caucus is very concerned about the backlog and the Administrations plan to increase the naturalization fee, which funds the naturalization program. We have developed the following proposed plan to address the INS backlog and delay the naturalization fee increase (we will go forward with the other fee increases on schedule). The plan has been discussed with Congressman Becerra and he agrees that we should not announce the plan at this time. The House is currently considering the Commerce, Justice, State appropriations bill, and announcement of this plan may jeopardize the funding for this initiative.

The proposed plan would

- *provide an additional \$171 million in FY1999 dedicated to reduce the backlog;

- *implement management improvements by establishing a new Deputy Executive Associate Commissioner for Immigration Services who will focus exclusively on benefits service delivery with a mandate to reduce the naturalization backlog, continue reengineering of adjudications processes, and improve customer service;

- *establish backlog reduction teams comprised of adjudicators dedicated to naturalization

application processing. The teams will be concentrated in the five cities that represent 65% of the backlog -- Los Angeles, San Francisco, New York, Miami, and Chicago.

*implement reengineering improvements (recommended by Price Waterhouse Coopers) including implementing a comprehensive national phone center, consolidating medical waiver and complete file review at service centers, and implementing the Guide to Naturalization ensuring standard procedures across the agency.

*implement the naturalization fee increase, including a fee waiver policy, effective January 1, 1999. All other immigration services fee increases will be effective in October, 1998. These fee increases are necessary to reflect the true cost of immigration services.

Congressman Becerra and we believe that we must delay announcement of this plan to protect funding and prevent Republican (Chairman Rogers) opposition. Therefore, you should not go into any of the specifics of this plan at tomorrows meeting.

4. Other Issues

The Office of Legislative Affairs has coordinated with other White House offices including DPC, NEC, OMB, OPL, and IGA to provide background and talking points on other Caucus priorities which we believe may be highlighted.

(See Attachment III)

III. PARTICIPANTS

Pre-Brief

President

Erskine Bowles

John Podesta

Maria Echaveste

Jack Lew

Gene Sperling

Mickey Ibarra

Bob Nash

Janet Murguia

Elena Kagan

Jeff Farrow

Mike Cohen

Event

President

Erskine Bowles

John Podesta

Maria Echaveste

Jack Lew

Mickey Ibarra

Bob Nash

Janet Murguia

Elena Kagan

Jeffrey Farrow

Members of Congress

Rep. Xavier Becerra (D-CA), Chairman
Rep. Nydia Velazquez (D-NY), Vice Chair
Rep. Loretta Sanchez (D-CA), Vice Chair
Rep. Henry B. Gonzalez (D-TX)
Rep. Luis Gutierrez (D-IL)
Rep. Ruben Hinojosa (D-TX)
Rep. Matthew G. Martinez (D-CA)
Rep. Robert Menendez (D-NJ)
Rep. Solomon P. Ortiz (D-TX)
Rep. Ed Pastor (D-AZ)
Rep. Silvestre Reyes (D-TX)
Rep. Ciro Rodriguez (D-TX)
Rep. Carlos Romero-Barcelo (D-PR)
Rep. Lucille Roybal-Allard (D-CA)
Rep. Jose Serrano (D-NY)
Rep. Esteban E. Torres (D-CA)
Rep. Robert Underwood (D-Guam)

IV. PRESS PLAN

Closed Press.

V. SEQUENCE OF EVENTS

As usual.

VI. REMARKS

None.

VII. ATTACHMENTS

- I. Congressional Hispanic Caucus Agenda.
- II. Latino Appointees Background from Presidential Personnel.
- III. Background and Talking Points on relevant issues and other Caucus priorities.

*August 1, 1997

MEMORANDUM FOR: BRUCE REED
ELENA KAGAN

FROM: MIKE COHEN

SUBJECT: PROCESS FOR RESOLVING HISPANIC CAUCUS CONCERNS ON NATIONAL TESTING INITIATIVE

It is critical that we have a final Administration position on the concerns raised by the Hispanic Caucus by the beginning of September, when Congress returns. Earlier would be preferable, though difficult. Below are my recommendations for how to proceed:

1. Education Department produces options memo

I have asked Secretary Riley to develop an options memo which can form the basis of a decision memo to the President.

*preliminary draft by August 8

*feedback from DPC, OPL, Leg affairs by August 11

*final by August 13

2. Internal White House review

I think we should plan on two internal meetings, including DPC, NEC, OPL, Leg. Affairs, Political Affairs, Intergovernmental, Communications, etc.

August 18: review and discussion of ED options, and assignments for external consultations

August 22: review feedback from outside groups, determine views of key offices, and agree on basic themes for decision memo

3. Consultations during week of 18th

-- Hispanic Caucus

-- Hispanic groups

-- urban districts

-- other supporters (e.g., business groups, AFT, NEA,)

-- states that have signed up or are likely to

-- key governors (e.g., Romer)

4. DPC Decision Memo to POTUS

By August 25, we should send a decision memo to POTUS that presents all options for which there is significant support, and which lays out pros and cons, including education impact, likely impact on overall testing initiative, likely impact on race initiative, and other political considerations.

STATEMENT OF ADMINISTRATION POLICY

TO: RAHM EMANUEL
LARRY STEIN
ANN LEWIS
ELENA KAGAN
PAUL BEGALA
CHUCK BRAIN
PETER JACOBY
BILL MARSHALL
PAUL WEINSTEIN

CC: ACTING DIRECTOR LEW
CHARLES KIEFFER
CHUCK KONIGSBERG
BOB DAMUS
MICHAEL DEICH

DATE: 6/2/98
FROM: Kate Donovan, OMB Legislative Affairs
RE: FOR YOUR CLEARANCE -- Draft SAP on H.J.Res. 78 - Joint Resolution Proposing an Amendment to the Constitution of the United States Restoring Religious Freedom

Attached is a draft SAP on H.J.Res. 78 - Joint Resolution Proposing an Amendment to the Constitution of the United States Restoring Religious Freedom

Position: Administration Strongly Opposes

Timing: Rules Committee is expected to markup H.J.Res. 78 tomorrow, Wednesday, at 3pm. Therefore, we aim to send the SAP tomorrow morning.

Please contact Kate Donovan at 5-4790 by Wednesday (6/3), 10am with your comments or clearance. Thank you.

DRAFT -- NOT FOR RELEASE

June 2, 1998
(House Rules)

H.J.Res. 78 - Joint Resolution Proposing an Amendment to the Constitution of the United States Restoring Religious Freedom
(Istook (R) Oklahoma and 153 cosponsors)

The Administration strongly opposes House passage of H.J.Res. 78. The Nation currently has a constitutional amendment that protects religious liberty. It is the First Amendment. Public school students are free to voluntarily pray privately and individually at school. Students already have a right to say grace at lunchtime. They have the right to meet in

religious groups on school grounds and use school facilities like any other school club. They have the right to read the Bible, or any religious text during study hall or other free class time. Similarly, people who wish to engage in religious expression on public property have the same rights as people who wish to engage in comparable nonreligious expression. For over 200 years, the First Amendment has protected our rights to be as religious as we choose. Congress should not tamper with this most precious liberty. The First Amendment should not be rewritten.

* * * * *

EE

(Do Not Distribute Outside Executive Office of the President)

This Statement of Administration Policy was developed by the Legislative Reference Division (Schroeder) in consultation with the Departments of Justice (Taylor) and Education (Riddle), WHLA (Jacoby), WH Counsel (Marshall), DPC (Fernandes), TCJS (Boden) and HRD (Mustain).

OMB/LA clearance:

The House Judiciary Committee reported H.J.Res. 78 with an amendment in the nature of a substitute on May 19, 1998.

Administration Position to Date

The Administration has not previously taken a position on H.J.Res. 78.

On May 30, 1998, the President stated in his weekly radio address that amending the Constitution is the wrong way to protect religious freedom. The address further stated that "[f]or more than 200 years, the First Amendment has protected our religious freedom and allowed many faiths to flourish in our homes, in our workplaces and in our schools. Clearly understood and sensibly applied, it works. It does not need to be rewritten."

Background

According to the House Judiciary Committee's report on H.J.Res. 78, the legislation was introduced in response to concerns that "the Supreme Court and lower courts have misinterpreted the Constitution by issuing rulings that severely restrict religious expression when other forms of free speech are not so restricted, and which result in discrimination against a religious viewpoint in public affairs."

Summary of H.J.Res. 78

H.J.Res. 78 would amend the Constitution to explicitly provide for an individual's religious rights to worship on public property, including schools, and prohibit the Government from requiring any person to: (1) join religious activities; (2) initiate or designate school prayers; (3) discriminate against religion; or (4) deny equal access to a benefit on account of religion.

Pay-As-You-Go Scoring

According to BASD (Balis), H.J.Res. 78 does not affect direct spending or receipts and, therefore, is not subject to the pay-as-you-go requirement of the Omnibus Budget Reconciliation Act. CBO concurs.

LEGISLATIVE REFERENCE DIVISION

06/02/98

October 5, 1998

MEMORANDUM FOR ERSKINE BOWLES

FROM:Chris Jennings

SUBJECT:HMO disenrollment from Medicare and Response by Administration

cc:John Podesta, Rahm Emmanuel, Jack Lew, Bruce Reed, Gene Sperling, Ron Klaine, Larry Stein, Sylvia Matthews, Elena Kagan, David Beier, Janet Murguia, Dan Mendelson

Later today, we are attempting to schedule a meeting with Secretary Shalala and her staff at HHS to go over a range of options for the President to consider to respond to those Health Maintenance Organizations (HMOs) that chose to selectively terminate some of their plans from participation in the Medicare program. Because of the growing news coverage of this issue, Rahm and Bruce believe it is advisable for us to move quickly to determine our strategy and public positioning on this issue. They asked if I would provide you this memo in preparation for such a meeting.

Background

As of late last night, HHS had not completed its analysis of the impact of the roughly 25 (mostly large) HMOs that chose to selectively terminate some of their plans from participation in the Medicare program. On a preliminary basis, however, it appears that the decisions by these HMOs will affect between 325,000 to 400,000 beneficiaries in about 375 counties. Because the Medicare program has about 6.5 million of its over 38 million beneficiaries in HMOs, about 5 percent of Medicare HMO enrollees and about 1 percent of the entire Medicare population seem likely to be impacted in any way at all. Having said this, because most of the beneficiaries affected will have another Medicare HMO option in their county, there appears to be a much smaller number of beneficiaries (between 30,000 and 80,000 -- about 1 percent of the Medicare HMO population) who will no longer have the option of enrolling in an HMO. (They will, however, always have access to their traditional fee-for-service plan, as well as to at least some supplementary "Medigap" coverage.)

FF

The Congress, so far on a bipartisan basis, has been critical of the decision by some within the HMO industry to selectively withdraw from Medicare. On Friday, the Republican Leadership left the Commerce Committee in the hands of the Democrats and some of their party's most vociferous critics of HMOs (such as Mr. Ganske) to excoriate the industry's representative. Mr. Thomas, the Chair of the Ways and Means Subcommittee on Health, has

also indicated at least his initial support of our decision not to allow plans to charge more and/or reduce benefits. Having said this, members of states that will be disproportionately affected can be counted on to pressure us to take more actions. Senator Dodd has already weighed in, and we can be sure others will follow.

The American Association of Retired Persons (AARP) support last week's decision by the Administration to reject the industry's request for changes in their coverage and cost sharing. They have indicated that they want to work with us to make sure that beneficiaries know all of their options and rights (discussed below) relating to the plan terminations from the program. Although they acknowledged that their sentiments may change as more beneficiaries complain, AARP indicated that they now see no reason to move quickly to respond to initial "scare" articles by taking any position that appears to reward "bad apple" HMOs. Having said this, they also do not believe we need to take a strong and public position that appears we have drawn lines in the sand on against doing something on this issue. They are of the mind that we should wait to see how big the problem is and how the public responds to it before taking any formal, final position. They think a quick tough position may unconstructively unify the HMO industry against us.

Options to Respond to HMO Industry's Actions.

Before briefly outlining some options, it is important that you are aware of actions we can and should take regardless of our broader strategy on the Medicare HMO issue. Clearly, we must be quick to ensure that HCFA collaborates with the aging advocates (like AARP), the aging network (like the Area Agencies on Aging); the state-based insurance counselors, and others in and outside the Administration to ensure that beneficiaries in impacted areas know that they can always return to the program's fee-for-service plan. Beneficiaries also need to know that the law requires Medicare supplemental insurers to offer beneficiaries access to certain "Medigap" coverage without being underwritten. As a result, insurance that fills in the voids that Medicare does not cover is truly accessible. Finally, to illustrate our commitment to find ways to assure this never happens again, we may also want to indicate our intention to introduce legislation that would help ensure that this never happens again. (For example, we might want to contemplate provisions that penalize plans for "cherry-picking" the high reimbursement areas or disallow HMOs to enter any new market if they have withdrawn in others.) Being proactive could help immunize us against charges we do not care about beneficiaries.

FFOptions for responding to last week's decision by many HMOs to pull out of Medicare:

1. Explicitly announce a "do nothing" position. In short, draw a line in the sand quite publicly and blame any subsequent mess on HMOs who signed a contract in May and are reneging on their commitment. Highlight all the "selfish" reasons why some HMOs are dropping out and underscore our commitment to never be "black-mailed" into changing the contracts we signed in good faith on behalf of the beneficiaries.

Pros: Strong and decisive action; Puts industry on the defensive and initiates a much more public war with one of the nation's most unpopular industries -- HMOs.

Cons: Republicans, some Democrats, and AARP may feel we are acting too politically and too abruptly; Charges of callousness to harmed beneficiaries may ensue; If we don't stay tough throughout inevitable "horror" stories, we will look much weaker.

2. Tacit "do nothing" position, but leave door (quietly open) option. Under this scenario, we would continue to say we are looking into impact to determine severity, but would say we continue to be skeptical that there is a valid argument to do anything. We would background the press on the weaknesses of the HMOs' arguments, but would hint that we might not reject out of hand any future intervention if our review turns up major problems for beneficiaries.

Pros: Would appear that we are not backing down to industry, but also gives flexibility in case we want to alter our current course; would likely be supported by the Republicans and AARP for now, might be safest -- but certainly not boldest -- option for the moment.

Cons: Could come across that we do not care about beneficiaries' woes; Could appear weak and indecisive; Opens door to HMOs to come in to cut a deal that may be viewed by the validators as setting very bad precedent for the Medicare program.

3. Expedite approval of new plans coming into counties now not served. This option would highlight our commitment to work with and give expedited approval to HMOs that were not in a service area when another HMO dropped its coverage. These so-called "good-guy" plans could give a less comprehensive benefit or cost-sharing protection package than the one that it would replace.

Pros: Would not reward "bad apple" HMOs; Supports our contention that we are taking reasonable actions to help beneficiaries keep access to an HMO option; in combination with base administrative and legislative package (outlined above), would illustrate that our "first and foremost" commitment is to beneficiaries -- not HMOs.

Cons: Very few new plans can be expected to come into these marginal markets; Will not significantly reduce the number of "victim" stories that will be reported; Makes us potentially more vulnerable to criticism that we did not do everything we could to help beneficiaries; If we pursue this option but eventually cave to HMOs' desires for other plans to get a similar offering, we would be perceived as very weak.

4. Expedite approval of new plans, but allow selected old plans to apply to come back in if no other option is available. This approach would allow a plan that withdrew from a service area, which now has no HMO option, to downgrade its benefits package to a level the HMO believes is financially viable.

Pros: Would help more beneficiaries at least retain some of their current HMO coverage; Would be more responsive to the inevitable pressure from the Congress to do more; and if -- as is likely -- the old HMOs do not come back, it is easier to lay the blame on them. (In other words, we did everything the HMOs asked for and they still did not come back.)

Cons: Rewards bad actors; Makes us look somewhat weak -- as though we backed down from pressure of the HMOs, Sets bad precedence for Medicare for future similar disputes with the industry (unless our administrative/legislative package makes it appear certain that we cannot or would not be able to do this again.)

5. "Third way" option: try to split the difference between option 3 and 4 to attempt to get the best and avoid the worst of both options. It might be possible (although we are still trying to develop a way to rationally apply this option) to allow only new plans in, but to give the HHS Secretary emergency authority to approve -- in selected cases -- applications

from HMOs from the old service area to come back into the county. Under this approach, no such plan could even be considered unless it was clear that no new plan would likely come into a particular service area. There would have to be additional criteria as well to ensure that there is no substantive difference between option 4 and 5.

Pros: Could argue that we showed how we could respond to beneficiaries' concerns without backing down to the "bad apple" HMOs; See #4 above for similar pros.

Cons: Could be vulnerable to charges that it is "too cute by half;" Might not be able to develop criteria that was realistic and useable enough to differentiate amongst similar plans.

Conclusion. There may be other options, but the above outlines what is most likely to be discussed later today. The White House staff (DPC, NEC, OMB, OVP, Rahm, etc.) has not had the opportunity to think through all of these options. In general, however, the White House tends to want to be a bit more aggressive than HHS. Consistent with this, HHS had indicated an interest in option 4 on Friday. However, some of Donna's staff seemed to be cooling to the idea over the weekend. Regardless, it is clear that all views on this issue will be influenced by the degree to which we receive troubling reports about beneficiaries.

HHS' staff will be meeting early this morning to go over their preliminary analysis and options. We will advise you if anything unusual comes back to us prior to your meeting.

MEMORANDUM

TO: BRUCE REED, ELENA KAGAN

FROM: TOM FREEDMAN, MARY L. SMITH

RE: HOMELESSNESS

DATE: MAY 5, 1998

I. BACKGROUND

*Fred Karnas is the head of the Interagency Council (708-1506).

*George Ferguson (708-1418 or 708-0614 x4517) to get draft of surveys.

II. STATISTICS

*There are about 250,000 to 350,000 homeless persons on a given night. (OMB).

*The Federal Plan states that on any given night there are as many as 600,000 homeless persons. (Burt and Cohen, 1989).

*OMB states that 4 out of 5 single homeless men are veterans. The Federal Plan states that approximately 30 to 45 percent of the entire adult male homeless population are veterans. Fred Karnas estimates that one-third of all homeless persons are veterans.

*The National Coalition of Homeless Veterans estimates that there are 275,000 homeless veterans on any given night. They estimate that there would be double that number over the course of a year.

*The National Coalition of Homeless Veterans estimates that the VA served 30,000 homeless veterans in 1997. VA says they serve 40,000 per year.

*50 percent of the homeless population have substance abuse problems (Fred Karnas).

*One-fourth to one-third have a mental health problem (Fred Karnas).

*Dennis Culhane has the best studies.

-- 80% cycle through pretty quickly

--10% have a longer cycling

--10% substance abuse and are chronically on the street

*The LA Vets program (which is a community-based organization) saved the local VA \$12- \$14 million.

*The Maryland Homeless Veterans program in Baltimore is also a good program.

III. GOVERNMENT

*The McKinney Act is the major legislation addressing homelessness. There is \$700 million for competitions.

*HUD spends \$1 billion on homelessness per year (OMB).

*Total VA budget for Homeless is \$90 million per year (Peter Dougherty).

*There are three major VA programs that work with homeless.

Grant per diem. This program gives grants to community-based organizations to acquire transitional beds. In FY 94 through FY 97, 101 grants were awarded to 84 non-profit or state or local government agencies in 36 states. There is \$5 million per year for new grants. Pays up to \$16/day for ongoing operational costs.

Homeless Chronically Mentally Ill Veterans Program. The HCMI program places homeless veterans needing more intensive treatment into one of its roughly 125 contracted community-based facilities. The program serves over 19,000 homeless veterans per year, with over 3,000 receiving residential treatment. The average cost per day is \$38. Domiciliary Care. Treatment takes place in approximately 1500 dedicated beds at VA medical center domiciliaries.

*Homeless Veteran Reintegration Program at the Department of Labor. \$10 million per year. This program gives money for employment programs.

*There are 56 VA facilities that serve homeless veterans (National Coalition).

*VA says there are 172 VA Medical Centers, and that 71 sites provide health care for homeless. At least 70 sites dont have domiciliary program (geographical that would be one-half of the country). Peter Dougherty estimates that they would need about \$45 million to cover most of country.

*Rep. Lazios bill, which passed in the House, would revamp the McKinney Act. HUD has dropped support for this bill (OMB).

*Rep. Marcia Kaptur (D-OH) is looking at the mental health aspects of homelessness (Fred Karnas).

*H.R. 3039. Sponsored by Stump and Lane Evans. This bill is a \$100 million loan guarantee program. It would only fund 15 sites. See Bruce Long at OMB.

IV. UPCOMING DATES

*May 1998. Draft of the national survey of clients. Marty Burke at Urban Institute will write it.

*Fall 1998. Provider survey, to be released later in summer.

*Fall 1998. The Interagency Council is going to lay out research and prepare a best practices report.

*November 1998. The Interagency Council is planning on putting on a conference (Fred Karnas).

V. RECOMMENDATIONS

*Tracking: we need to track the homeless population. There is an ANCHOR database system being developed by University of Pennsylvanias Dennis Culhane (sp). Recommended by OMB. The National Coalition suggests that providers ask whether someone is a veteran on their intake forms.

*Better coordination -- make mainstream programs more available.

*Link housing vouchers to case management. Recommended by OMB.

*The VA is not held accountable on outcome. The National Coalition believes that the VA only counts numbers served, not the number who no longer are homeless. Peter Dougherty from the VA disputes this -- he says they have great tracking statistics.

*Put more money in VA programs. In this order (1) grants per diem (because it is only a subsidy so you get more bang for your buck (2) health care and (3) domiciliaries.

*HUD grants should put veterans as a consideration in issuing grant. (Peter Dougherty from VA).

July 29, 1998

MEMORANDUM TO: Cheri Carter

FROM: Frank Hall

RE: Budget Briefing for Homeless Groups

Yesterday I spoke with Bob Reeg of the National Coalition for the Homeless about organizing a budget briefing for Homeless organizations. Mr. Reeg had spoken with you and Minyon at the last budget briefing, and Minyon said she would help to organize a briefing for homeless organizations.

Mr. Reeg is interested in a meeting with members of the DPC as well as OMB staff. He said their groups would be primarily interested in a meeting with Special Assistant level staffers and above. He suggested Elena Kagan and Christopher Jennings as two possibilities. He said they would not be as interested in meeting with Bruce Reed because they are looking for a substantive dialogue instead of a "happy, feel-good talk." He indicated that any of the higher-level policy staff would be appropriate. As far as substance is concerned, Mr. Reeg and his colleagues are interested in the FY 2000 budget more so than the FY 99. There have been serious cuts to funding of Homeless efforts and they would like to discuss the refunding of certain projects. The issues to discuss would call for policy specialists in each area to attend the proposed briefing. These issues are:

1. Health Care
2. Housing
3. Human Services
4. Income Security
5. Education / Training

Mr. Reeg also proposed a potential listed of groups to be represented at such a briefing. They include:

1. National Coalition for the Homeless
2. National Alliance to End Homelessness
3. National Law Center on Homelessness and Poverty
4. National Network for Youth
5. National Coalition for Homeless Veterans
6. National Health Care for the Homeless Council

On a separate note, Tom Freedman of the DPC has given an independent invitation to the National Coalition for the Homeless to meet at the White House concerning similar issues. Mr. Reeg suggested coordinating such an invitation with the proposed budget brief.

HPS WAR Items for Week of Oct 13-17, 1997

DPC Meeting with Civil Rights Agencies: HD staff attended a meeting convened by Elena Kagan with civil rights enforcement agencies in HHS, Labor and Education, to discuss: 1) how to improve and enhance civil rights enforcement; and 2) to discuss ideas agencies might have for possible initiatives for FY 1999; and 3) how the Administration can help these agencies with Congressional appropriators (a concern being that the Budget has requested more money than Congress has been appropriating for these office). The DPC is searching for civil rights initiatives to include in the Presidents Initiative on Race and will probably ask for OMBS assistance in any initiatives they develop.

Presidential Initiative on Racial Disparities in Health -- HD 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 potential Presidential initiatives on reducing racial disparities in health status. Per the guidance of DPC, HHS has prepared draft FY 1998 and FY 1999 funding initiatives to address six health areas where there are notable racial disparities: infant mortality, breast and cervical cancer, heart disease and stroke, diabetes, AIDS and childhood immunizations. HHS advised that the FY 1999 initiative, which would provide grants to 30 communities to address one of the six health areas, would cost \$360 million over 5 years; \$30 million of which would be for FY 1999. This proposal was not included in HHS' FY 1999 submission to OMB in September.

DPC and HHS discussed the possibility of having the President announce these FY 1998 and FY 1999 funding initiatives 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. It was noted that any Presidential funding commitments for FY 1999 would have to be cleared through OMB. DPC staff also noted that the President and Chief of Staff Bowles have a strong interest in this potential initiative.

ONDCP "De-Certification" Meeting with HHS -- ONDCP and HHS staff met to discuss ONDCP's possible "de-certification" of HHS' FY99 request to OMB for drug programs; HD and TCJS staff attended. ONDCP staff believes that HHS' request for the Substance Abuse and Mental Health Service Administration does not adequately reflect the high priority General McCaffrey places on investing in substance abuse treatment. In July, ONDCP had asked that HHS seek a \$400 million increase in SAMHSA's \$1.3 billion Substance Abuse Block Grant in FY99, but HHS' FY99 Budget includes "only" an \$85 million increase. If ONDCP "de-certifies" HHS' request, HHS will be required to submit a revised request to OMB. De-certifications are rare, but once they happen, they are likely to become public, which is why HHS is trying to work this out with ONDCP. The next step is for HHS to decide if they would rather modify their FY99 request and re-submit it to OMB or risk being forced to do so by ONDCP if they were to formally "de-certify" HHS' request.

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April 9, 1996

MEMORANDUM TO GEORGE STEPHANOPOLOUS
MELANNE VERVEER
BETSY MYERS
VICKI RADD
ELENA KAGAN
JENNIFER KLEIN
TERRY EDMONDS
JOHN HART
DEBBIE FINE
JUDY GOLD

From:Jeremy Ben-Ami

Subject:Additional Stories for Press Packet

Attached are articles I would propose putting in a press packet for the veto of HR1833.

Please review and let me know ASAP if you see a problem distributing any of them. We do have others we could substitute. All of these women have had personal contact either with White House staff, congressional staff, or one of the women's groups. Their stories have been subject to at least some public scrutiny.

STATEMENT OF ADMINISTRATION POLICY

TO: RAHM EMANUEL
LARRY STEIN
JOHN PODESTA
SYLVIA MATHEWS
GENE SPERLING
SALLY KATZEN
BRUCE REED
ELENA KAGAN
JANET MURGUIA
CHUCK BRAIN
TRACY THORNTON
RON KLAIN
BILL MARSHALL
JASON GOLDBERG

CC: DIRECTOR RAINES
DEPUTY DIRECTOR LEW
BOB DAMUS
CHARLES KIEFFER
JOE MINARIK
MICHAEL DEICH
CHUCK KONIGSBERG

DATE: 5/4/98
FROM: Kate Donovan, OMB Legislative Affairs
RE: FOR YOUR CLEARANCE -- Draft SAP for HR 2676 -- IRS Restructuring and Reform Act

Attached is a draft SAP on H.R. 2676 -- IRS Restructuring and Reform Act. Please note that the first paragraph has been revised since previous drafts were circulated.

Position: Administration supports passage with certain modifications.

Timing: The Senate is currently considering HR 2676 with votes expected throughout the week. Therefore, we aim to send it early Tuesday morning.

Please contact Kate Donovan at 5-4790 by Tuesday, 10am with your comments or clearance. Thank you.

STATEMENT OF ADMINISTRATION POLICY

TO: RAHM EMANUEL
LARRY STEIN
JOHN PODESTA
SYLVIA MATHEWS
GENE SPERLING
SALLY KATZEN
BRUCE REED
ELENA KAGAN
JANET MURGUIA
CHUCK BRAIN
RON KLAIN
BILL MARSHALL
KEVIN MORAN

CC: ACTING DIRECTOR LEW
CHARLES KIEFFER
ELIZABETH GORE

DATE: 6/15/98
FROM: Kate Donovan, OMB Legislative Affairs
RE: FOR YOUR CLEARANCE -- Draft SAP & Treasury Letter on
H.R. 3097 - Tax Code Termination Act

Attached is a draft SAP and Treasury Letter on H.R. 3097 - Tax Code Termination Act.

Position: Senior Advisers Veto Recommendation

Timing: Scheduled for House Floor action Wednesday, June 17. We aim to send tomorrow, Tuesday, afternoon. Please provide comments/clearance by noon tomorrow (5-4790).

STATEMENT OF ADMINISTRATION POLICY

TO: RAHM EMANUEL
LARRY STEIN
JANET MURGUIA
TRACY THORNTON
CHUCK BRAIN
JOHN PODESTA
SYLVIA MATHEWS
GENE SPERLING
PETER ORSZAG
BRUCE REED
ELENA KAGAN
RON KLAIN
PAUL WEINSTEIN
JASON GOLDBERG

CC: DEPUTY DIRECTOR LEW
CHARLES KIEFFER

DATE: April 27, 1998
FROM: Kate Donovan, OMB Legislative Affairs
RE: FOR YOUR CLEARANCE --
Draft SAP on H.R. 3546 - National Dialogue on Social Security Act of 1998

Attached is a draft SAP on H.R. 3546 - National Dialogue on Social Security Act of 1998. On 4/24, Speaker Gingrich stated that the POTUS will sign the Republican bill creating a bipartisan commission (statement attached).

Position: The Administration supports the goal of H.R. 3546; however, the bill is unnecessary.

Timing: House floor consideration expected Wednesday (4/29). Gene Sperling has requested that the SAP be sent to the Hill just prior to consideration.

Please contact Kate Donovan at 5-9136 with your comments/clearance by 4pm Tuesday, 4/28.

January 9, 1997

NOTE TO: BARRY WHITE/ BOB SHIREMAN/ NAOMI TINKLEPAUGH

CC: JIM MURR
JANET FORSGREN

SUBJECT: REQUEST FOR ADMINISTRATION COMMENTS ON REP WOOLSEY "BEST" BILL

FROM: ROGER MCCLUNG

Tom Kalil at the NEC received a request from Rep Lynn Woolseys staff for changes that would enable the Administration to support the "Business and Education Sharing Technology Act (BEST)" introduced as HR 3921 in the last Congress. (See attached note from Alice Shuffield)

When this bill was in review last September one issue of concern was the requirement in Sec 5 that a WH recognition ceremony be held. Give me your views on whether this section would have to be deleted or how it could be changed to be acceptable. Please give me these changes as well as any other comments or suggested changes to the bill by 2PM Monday, Jan 13th.

I am also sending the bill to Education and Commerce for their comments and changes, if any, and will get consolidated agency/OMB comments to Alice Shuffield. Alice will get comments/clearance directly from Greg Simon and Elena Kagan.

Thank you.

STATEMENT OF ADMINISTRATION POLICY

TO:JACK LEW
SYLVIA MATHEWS
JOHN PODESTA
MARIA ECHAVESTE
LARRY STEIN
ELENA KAGAN
BRODERICK JOHNSON
GENE SPERLING
SARAH ROSEN
CHUCK KIEFFER
ELIZABETH GORE
CHUCK KONIGSBERG

DATE:8/6/98

FROM:Kate Donovan, OMB Legislative Affairs

RE:FOR YOUR CLEARANCE -- Draft Treasury Letter on HR 4364 - Depository Institution
Regulatory Streamlining Act of 1998

POSITION:SECRETARY OF TREASURY VETO RECOMMENDATION ON THE BILL IN ITS CURRENT FORM.

BACKGROUND:HR 4363 was marked up by a House Banking subcommittee on 8/4/98. The
subcommittee amended the bill to include a provision that would exempt small banks from the
Community Reinvestment Act.

On 7/22/98, a SAP was released on HR 1151, Credit Union Membership Access Act with the
position: "The full Senate should reject amendments ... such as the amendment that would
substantially weaken the CRA by exempting certain banks from the Acts requirements. If HR
1151 were presented to the President with such an amendment, the Secretary of the Treasury
would recommend that the President veto the bill."

TIMING:Treasury aims to release before the House recesses for the month. Please review &
provide comments/clearance as soon as possible to Kate Donovan at 5-4790. Thanks.

Childrens Health Outreach Campaign -- We now believe that we need to go ahead and launch the outreach campaign in September. Governors and others are anxious to begin outreach activities, and we want to ensure that the Administration maintains control of these efforts (so that, across the country, families hear one message and see one phone number). At the September event, we will be prepared to launch a radio campaign and announce activities by corporations (e.g., Nike, AT&T, etc.), foundations, grassroots advocacy groups (e.g., health, religious, child care, and education) and others. In addition, we hope to announce that the networks will begin airing public service announcements during prime time hours in January.

Cincinnati Childrens Health Outreach Article -- You had seen a July 27 article titled "Free Insurance Promoted" in The Cincinnati Enquirer. The article stated that the President recently made \$500 million available to local communities to publicize the Childrens Health Insurance Program (CHIP). The reporter received his information from a county official who thought that the President had announced the availability of this funding in February. In fact, the President announced only a legislative proposal to allow states to use \$500 million of welfare reform dollars for CHIP outreach. It does appear that Ohio is making welfare reform funds available to community groups for outreach, though this is not actually permitted without the change proposed by the President.

Single Sex Education -- Elena Kagan and Mike Cohen are drafting a memo to update you on the continuing negotiations between the Department of Educations Office of Civil Rights and the Young Womens Leadership School in East Harlem. We also thought that you might be interested in knowing that Kay Bailey Hutchison plans to offer an amendment to Labor-HHS Appropriations to make certain that federal education funds can be used to support same-gender public schools as long as comparable educational opportunities are offered for students of both sexes.

August 7, 1998

MEMORANDUM FOR HILLARY RODHAM CLINTON

FROM: JENNIFER KLEIN
NICOLE RABNER
NEERA TANDEN

CC: MELANNE VERVEER

SUBJECT: Issues Update

Below please find brief updates on various issues. Next week, Nicole will forward separate memos on child welfare/adoption and Packard Foundation discussions, and Neera will forward follow-up memos on D.C. Charter Schools and on the amended version of the Senates juvenile crime bill.

Childrens Health Outreach Campaign. We now believe that we need to go ahead and launch the outreach campaign in September. Governors and others are anxious to begin outreach activities, and we want to ensure that the Administration maintains control of these efforts (so that, across the country, families hear one message and see one phone number). At the September event, we will be prepared to launch a radio campaign and announce activities by corporations (e.g., Nike, AT&T, etc.), foundations, grassroots advocacy groups (e.g., health, religious, child care, and education), and others. In addition, we hope to announce that the networks will begin airing public service announcements during prime time hours in January.

Head Start. Head Start, as you know, is up for reauthorization this year, and the Senate completed its bipartisan bill many weeks ago, with our close involvement. The bill authorizes the Head Start program at amounts proposed by the President and, you will be interested to note, adds "school readiness" as a specific outcome goal for the Head Start. This will open the way for discussions about a standardized curriculum which will begin exploring with HHS and others in the fall. The House, on the other hand, has turned Head Start reauthorization into a partisan fight -- the full House Committee added provisions such as vouchers for parents to choose alternate child care arrangements, a repeal of the Davis-Bacon prevailing wage law, and burdensome requirements for Head Start grantees to verify TANF compliance -- all of which we strongly oppose. Congressman Goodling, the Chair of the full Committee who has urged bipartisanship on this issue, and Congressman Riggs, the sub-Committee Chair and main proponent of the partisan amendments, have been arguing about this bill for some time. We now understand that Goodling may in September bring to the floor a Head Start bill stripped of the objectionable provisions.

Another important controversy surrounding Head Start reauthorization is the issue of program quality. The Administration has always maintained that there needs to be a careful balance between investments in Head Start expansion and quality -- that while we must sustain our commitment to improving program quality, we must also seek to serve more of the eligible population with Head Start services. Current law states that 25 percent of expansion dollars (i.e., funds above the prior years funding mark) must be spent on

improving quality (salary enhancements, facility upgrades, etc.). We have long supported this provision, even though the trade-off is that we can serve less additional children with any increased funding level. House Republicans want to increase substantially this quality set-aside in reauthorization, to nearly 75 percent. While it is difficult for us to oppose quality investments, we plan to press for a more balanced approach to investing in quality and expansion, particularly since we want to reach the Presidents goal of serving one million children with Head Start services (which would be nearly impossible to do if 75 percent of any additional dollars were targeted to quality activities). Since the Senate left the 25 percent quality set-aside intact, we imagine that some compromise (but still a net increase of quality dollars) will be worked out in Conference in the fall.

Social Security Reform and Women. A broad group of women Members of Congress sent a letter to the President on Thursday, urging him to pay careful attention to the implications of Social Security reform for women (attached). We will continue to monitor this important issue in the fall.

D.C. Appropriations Bill. On Thursday night, the House passed its D.C. Appropriations bill. We were pleased that the bill fully funds both D.C. public schools and D.C. charter schools (therefore not pitting them against one another). However, three strongly objectionable amendments were attached to the bill -- including measures to establish private school vouchers, to prohibit adoptions in the District by unmarried or unrelated couples, and to prohibit the use of Federal and local funds for needle exchange programs. In addition, the bill would bar the use of local District funds for abortions, and fails to fund the Presidents economic revitalization plan for D.C. We have particularly followed the adoption restriction in the bill, which clearly targets the gay and lesbian communitys ability to adopt and become foster parents, jointly. In our objections to this measure, we have stressed that the D.C. Appropriations bill is an inappropriate forum for a policy debate on child welfare, which has a strong history of bipartisanship. In addition, it is unnecessary interference in foster care casework, where the best interests of the child should govern decision-making.

Senate Labor-HHS Appropriations Bill. The Senate is just beginning to consider its Labor-HHS Appropriations bill, and plans to begin its subcommittee markup in September. We have heard unconfirmed reports that Senate Republicans are considering fully funding our FY 1999 child care Appropriations request, which includes the \$180 million of initiatives that require discretionary funding (the standards enforcement fund, the scholarship program, and the research fund). It is unclear, however, if the Senate plans to fund our specific initiatives or if they plan to target the \$180 million of our request to block grant discretionary funds for subsidies. In addition, we have heard that the Senate is likely to fund our after-school initiative, the 21st Century Community Learning Center program, at \$80 million for FY 1999, but they may well fund it at a higher level (\$80 million would double the programs current funding level, but is considerably less than the Presidents \$200 million request).

Bankruptcy Reform. There are still no prospects of movement on the Hill before this Congress adjourns. However, because the bill could come up by surprise in the fall and in order to be prepared in the long-term, we are working with the NEC to develop proposals that address creditor abuse and that promote consumer protection and education.

Single Sex Education. Elena Kagan and Mike Cohen are drafting a memo to update you on the continuing negotiations between the Department of Educations Office of Civil Rights and the Young Womens Leadership School in East Harlem. We also thought that you might be interested

in knowing that Kay Bailey Hutchinson plans to offer an amendment to Labor-HHS Appropriations to make certain that federal education funds can be used to support same-gender public schools as long as comparable educational opportunities are offered for students of both sexes.

Youth Violence Dinner Follow-Up. We are in the process of gathering follow-up ideas from a number of the dinners participants. As appropriate, we will distribute their ideas to staff, and will ensure that those working on the White House Conference on School Safety receive relevant input. In addition, we will forward a memo to you next week outlines the recommendations of the Departments of Justice and Education and White House staff for themes of the conference.

Working Families Shadowing Idea. Ellen Galinsky of the Families and Work Institute has teamed up with Lifetime Television for Women to implement your idea of organizing a shadowing effort in which elected officials are paired with a low-income working family in their district to learn first-hand, over the course of a day, about the many challenges families face. They are now working to identify and target Members of Congress for this effort, and are very eager for your participation in a follow-up meeting or event in the fall, in which the officials involved would discuss what they learned from their shadowing experience. In particular, the group would like to urge Members of Congress to participate by signaling your willingness to join this follow-up discussion.

Asthma. You asked us to evaluate Michael Fumentos recent op-ed in the New York Times (attached), which argued that EPAs efforts to ban two kinds of pesticides are counter-productive because these pesticides are used to kill cockroaches, which, in turn, can cause asthma. While there are several misrepresentations in this article, two in particular stand out. First, Mr. Fumento argues that EPAs efforts to regulate air pollution based on asthma are misguided because, he contends, asthma rates are highest in countries that have lowest pollution rates. However, ozone is a powerful cellular irritant that does cause respiratory inflammation and spasms in the lungs air passages, and it is consistently associated with aggravating the disease in study after study. In fact, the American Lung Association determined that children with asthma are 40 percent more likely to suffer asthma attacks on high-pollution days compared to days with average pollution. Therefore, while it is the case that we do not know exactly why asthma rates have increased at the same time that overall air quality has improved, we do know that increased levels of ozone in the air exacerbates asthma, particularly in children.

In addition, Mr. Fumentos central argument is that EPAs consideration of a ban on organophosphates and carbamates, two types of pesticides that are potent cockroach killers, is wrong headed because these pesticides could help reduce asthma levels by killing cockroaches. However, he fails to mention that these two pesticides are toxic to the central and peripheral nervous systems, and that they are members of the same chemical class as the war gases, sarin and soman. The EPA is regulating these pesticides under the Food Quality Protection Act, which requires that pesticides standards be set at levels that protect childrens health. EPAs preliminary findings indicate that American children are still exposed to some organophosphate and carbamate pesticides at levels of tens to hundreds of times above safe thresholds. Finally, it should be noted that Mr. Fumento is a frequent contributor to "The Washington Times" and "The Weekly Standard," and regularly criticizes environmental regulations. His books include Science Under Siege: Balancing Technology and the Environment and The Myth of Heterosexual AIDS.

Cincinnati Childrens Health Outreach Article. You had seen a July 27 article titled "Free

Insurance Promoted" in The Cincinnati Enquirer. The article stated that the President recently made \$500 million available to local communities to publicize the Childrens Health Insurance Program (CHIP). The reporter received his information from a county official who thought that the President had announced the availability of this funding in February. In fact, the President announced only a legislative proposal to allow states to use \$500 million of welfare reform dollars for CHIP outreach. It does appear that Ohio is making welfare reform funds available to community groups for outreach, though this is not actually permitted without the change proposed by the President.

Ryan Moore. Nicole has kept in touch with Ryan and his family, who convey their love to you and the President. The Moores also wanted you to know that a Christian publisher is interested in commissioning a book about Ryan (to be written in his voice with help from writer), to teach children about disabilities and tell his inspirational story of faith and hope. They asked if they could include photos and stories representing how important you and the President have been in Ryans recovery, if this moves forward. We will stay in touch with the Moores as the project develops.

Lisa Pritzger. Jen spoke with Lisa Pritzger to follow up with your conversation with her on at risk youth at the Pritzger dinner. She is interested in working with us as we develop policy and plan events in this area, but had no specific ideas yet. Unfortunately, she will be away at the time of the White House Conference on School Safety.

September 23, 1997

MEMORANDUM

TO:Hillary Rodham Clinton
CC:Melanne Verveer
FROM:Jennifer Klein, Nicole Rabner
RE:Tomorrows Meeting on Child Care

As you know, tomorrow we are meeting with Bruce Reed and Elena Kagan to discuss child care policy, specifically in the areas of school-age care, quality promotion, and affordability. As you know from our last meeting, many policy options are now on the table -- many of which we discussed, and some of which you rightly added. We are now at a stage (approximately one month before the Conference), where we need to make decisions about priorities, specifically in preparation for the decision memo for the President and you to review.

Elena has been involved in many, but not all, of our policy meetings; Bruce has been periodically briefed but has not been as intimately involved. This meeting presents a good opportunity to review the options that have emerged from our policy process, to raise tough questions, and explore a strategy for follow-up.

You might consider offering to convene a larger meeting with NEC, OMB, HHS, Treasury, etc., to bring the relevant players together to discuss budget priorities. We need Bruce to take a leadership role to narrow options and prepare us for such a meeting.

MEMORANDUM FOR ERSKINE BOWLES

THROUGH: Jack Lew

FROM: Don Arbuckle

SUBJECT: Heads-up on SBAs Final HUBZone Empowerment Contracting Rule

We are reviewing the Small Business Administrations (SBA) final rule implementing the HUBZone Empowerment Contracting program. We received the rule on May 15th and are working to clear it in time for SBA to meet its May 29th statutory deadline for publication.

This program implements the Historically Underutilized Business Zone (HUBZone) Act of 1997, as championed by Senator Bond, and builds on the Presidents Empowerment Contracting Executive Order of May 21, 1996. The HUBZone program is designed to provide Federal contracting opportunities for small businesses located in distressed communities - - primarily rural areas - - in order to increase employment opportunities and investment in those areas.

In this proposal SBA sets out the broad goals and procedures of the HUBZone program. This includes the definition of HUBZone areas as detailed in the law; the establishment of the certification criteria and process for HUBZone firms; and, the list of federal agencies required to participate in the program. SBA is also responsible for maintaining a list of qualified HUBZone firms for Federal contracting officers.

The main concern for SBA in this rule was how to implement the HUBZone program without harming its other programs, particularly the 8(a) program. We believe they have successfully written a final rule that is a supplement, not a replacement, to their existing programs. We do not expect any particular controversy to accompany publication of this rule.

Please call me if you have any questions.

■ ■

cc: Maria Echaveste
Rahm Emanuel
Larry Stein
Ron Klain
Thurgood Marshall, Jr.
Ann Lewis
Sally Katzen
Sylvia Mathews
John Podesta

Bruce Reed

Gene Sperling

Elena Kagan

Barry Toiv

Michael Waldman

Janet Yellen

Mickey Ibarra

Michael Deich

March 31, 1998

MEMORANDUM FOR ERSKINE BOWLES

THROUGH: Franklin D. Raines

FROM: Don Arbuckle
Acting Administrator

SUBJECT: Heads-up on SBAs proposed HUBZone Empowerment Contracting rule

In the next few days we will complete review of the Small Business Administrations (SBA) proposed rule implementing the new HUBZone Empowerment Contracting program. This program implements the Historically Underutilized Business Zone (HUBZone) Act of 1997, and builds upon the President's Empowerment Contracting Executive Order of May 21, 1996. The HUBZone program is designed to provide federal contracting opportunities for qualified small businesses located in distressed communities in order to increase employment opportunities and investment in those areas.

In this proposal SBA sets out the broad goals and procedures of the HUBZone program. This includes the definition of HUBZone areas as detailed in the law; the establishment of the certification criteria and process for HUBZone firms; and, the list of federal agencies required to participate in the program. SBA is also responsible for maintaining a list of qualified HUBZone firms for Federal contracting officers.

The main concern for SBA in this proposal was how to implement the HUBZone program without harming their other programs, particularly the 8(a) program. We believe they have successfully written a proposal that is a supplement, not a replacement, to their existing programs. The Vice President plans on announcing this proposed rule on Thursday, April 2nd in an interview with Black Entertainment Television.

Please call me if you have any questions.

cc: Maria Echaveste
Rahm Emanuel
Larry Stein
Ron Klain
Thurgood Marshall, Jr.
Ann Lewis
Sally Katzen
Sylvia Mathews
John Podesta
Bruce Reed
Gene Sperling
Elena Kagan
Barry Toiv
Michael Waldman

Michael Deich
Linda Ricci

MEMORANDUM FOR ERSKINE BOWLES

THROUGH: Franklin D. Raines

FROM: Sally Katzen

SUBJECT: Heads-up on Proposed HHS Protection of Human Subjects Rule

We are about to conclude review of a proposed HHS rule amending its regulations designed to protect women and fetuses involved in Federal research.

This is a relatively pedestrian rule. However, there is one aspect of the rule that may attract attention from the press or Hill. HHS proposes to remove a requirement that Federal researchers obtain consent from the father of a fetus before conducting research on a pregnant woman. HHS believes that accepting the consent of only one parent (in this case, the mother or her legal guardian) effectively protects the interests of the fetus and eliminates barriers to experimental treatments that may benefit the fetus.

Please let me know if you have any questions.

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

September 8, 1998

MEMORANDUM FOR BRUCE REED

ELENA KAGAN

FROM: Domestic Policy Council Staff

SUBJECT: Compilation of Preliminary New Ideas

CHILDREN AND FAMILIES

1. Child Care. Reintroduce the Presidents child care proposal. This includes: increased funding for the Child Care and Development Block Grant; increased tax credits for working families to help them pay for child care; a fund to invest in programs that support early childhood learning and development; after-school care through the 21st Century Learning Center program; and programs to improve child care safety and quality through a fund to states to enforce standards better, scholarships for child care providers, and additional funding for evaluation and research.
2. Paid Parental Leave. Many workers, including those covered by the Family and Medical Leave Act, cannot afford to take leave at the birth or adoption of a child. This proposal would provide paid parental leave for a limited period of time to working parents with family incomes below a set amount. For example, a new proposal could provide 6 weeks of paid leave to all new parents who have been in the workforce either part-time or full-time for one year and whose family income is below \$50,000, at a cost of \$1 billion per year. This proposal could use the unemployment insurance system to provide the leave payments, but would be paid for by the federal government.
3. Home Visitation. Home visiting programs, in which a trained professional (such as a nurse) pays routine and intensive visits to pregnant mothers and new parents, have proven successful in strengthening families and improving child outcomes, particularly reducing child abuse. We propose to create a grant program to fund the development or expansion of home visitation programs, with priority given to areas with high rates of child maltreatment.
4. Child Welfare. Each year, thousands of foster children "age out" of the child welfare system; at age 18, children lose their foster care maintenance assistance funding, and many have neither been reunified with their family nor adopted. In the next 3 years, approximately 65,000 children will "age out." We propose increasing by 50% the Federal Independent Living Program (ILP), which assists adolescents aged 16-18 in the foster care system as they prepare for independence. The ILP provides services to help foster care children earn a high school diploma, receive vocational training, and learn daily living skills such as budgeting, locating housing, planning a career, and finding a job. The program was begun in 1984, and has been funded at \$70 million annually since 1992. Funds are awarded directly to the States, which receive a base amount by formula and additional funds at a 1:1 match ratio.
5. Child Tax Credit. The 1997 Balanced Budget Agreement created a Child Tax Credit of \$500 per child for families. We would propose an expansion of the credit to families with children under three, in order to better support working families. This tax credit may allow some parents to spend more time with children by enabling them to forego some

income. The proposal would benefit both families in which both parents work, as well as families in which one parent stays at home. This proposal would roughly cost \$5 billion over five years.

6. Home Office Tax Deduction. We propose an expansion of the Home Office Tax Deduction in order to create incentives for parents to work from home so that they may spend more time with their children. This proposal would allow the taxpayer to claim additional expenses of the costs of working from home, such as Internet hook-up costs. It would cut down on commuting time, thereby allowing parents to spend more time with their children. In addition, the tax deduction would help reduce pollution costs associated with commuting.

7. Flex-Time: We propose offering tax credits to all companies that offer a variety of family-friendly benefits, including flexible work hours for their employees, compressed work weeks, part-time work with benefits, job sharing, career sequencing, and extended parental leave. Such a tax credit would enable parents to spend more time with their children by providing companies, both small and large, to respond to the time crunch families are facing. In addition, it builds on our flex-time proposal (which allows workers to take their over-time compensation as vacation time) and family-leave proposal.

8. After-school programs: In order to meet the growing concerns parents have over how their children are occupied in the hours between the end of the school day and the time parents arrive at home, we propose an expansion of our after-school initiative. A poll recently conducted by the Mott Foundation found that 92% of Americans believe there should be organized activity for children after school; 78% strongly share this view. In order to address this growing consensus, we propose first expanding our 21st Century Learning Centers Initiative, which supports school-based after-school programs. In addition, we propose creating a set-aside within the Child Care and Development Block Grant targeted to after-school programs run by community-based organizations.

CIVIL RIGHTS

1. Enhance the CRS program at Justice. The Community Relations Service at Justice has been a significant force in cooling racial tensions in communities all over the country. Since the 1980s, their budget has been decimated. This initiative could (1) enhance CRS's ability to provide mediation services to resolve community civil rights concerns as an alternative to litigation; and (2) provide CRS conflict resolution training and technical assistance to communities. The CRS is very popular with the AG and she often talks of wanting it strengthened.

2. Inter-Agency Task force on Discrimination. This initiative would create an inter-agency task force (headed by the Civil Rights Division at Justice) to expand research on the extent of racial discrimination in the country. The research would focus on developing uniform testing protocols in housing, employment, and access to capital and then using these tools to assess the nature and extent of discrimination in these areas. This effort could be linked to agency compliance and/or enforcement work.

3. Improve Civil Rights Information Sharing. This proposal would provide funds to establish and maintain a system that links the data bases of agencies with civil rights enforcement responsibilities -- thus allowing, for example, OCR at Education to have better access to work being done by the Education Section at Civil Rights.

4. Becoming an American. A national effort to focus on easing the transition to the U.S. for new immigrants. We could provide grants to community-based organizations that fund English and civics classes for new immigrants. Also, we could encourage the development of programs that provide practical transition-type help to new immigrants -- such as understanding the public education system; understanding the housing system, etc. According to the INS, there is a bit of this being done on the community level, but they do not fund any of it. Also, some of the education bits are done by the Dept. of Ed. (adult education and/or literacy), but not in a coordinated way. HHS funds some transition work for refugees. This general idea was first talked about by the Jordan Commission.

5. Sweat-Shop Initiative. Expand enforcement against labor abuses in "sweatshops" and on farms that employ migrant farm laborers. Many of the wage & hour laws in place to protect low-wage workers are not adequately enforced by the Department of Labor, in part because of dramatic reduction in funding for these efforts during the 1980s. These workplaces often serve as places of gateway employment for new immigrants, and thus the abuses disproportionately affect Latinos and Asians.

6. Equal Pay. A program that could be run by the EEOC and DOL to increase outreach to businesses to educate them about the legal requirements for paying equal wages, provide technical assistance, improve training for EEOC employees and resources for increases in enforcement capabilities.

COMMUNITY EMPOWERMENT

1. Access To Capital For All Americans.

*CDFI Tax Credit. In 1996, we proposed a tax credit for investors in CDFIs. We could re-propose this \$100 million non-refundable tax credit. The maximum amount of credit allocable to a particular investment would be 25 percent of the amount invested.

*Voluntary CRA. Launch a bully pulpit effort to encourage non-bank financial institutions to develop and implement principles for community investment.

*Micro-Enterprise. Provide authorization and funding for CDFI Fund to provide technical assistance to micro enterprise organizations and micro-entrepreneurs (PRIME Act, Kennedy-Domenici).

*Secondary Market. Develop coordinated administration initiative to take first steps towards secondary market for community development loans, including data collection, education, standardization, regulatory review, and the creation of a loan loss reserve fund to back pools of community development loans pooled and sold by the private sector.

*Fair Lending. Continue to push the Fed to permit collection of data on race and income of small business borrowers; consider legislation if this fails.

*Capital Access Programs. Push to give the CDFI Fund authorization to launch small business capital enhancement program to back state-run loan loss reserve funds that permit banks to make more difficult small business loans.

2. Sustainable Development.

*Environmental Activity Bonds. In response to the growing needs of urban areas, an environmental bond would help cities meet the environmental goals set by the Clinton Administration. EPA has identified three areas which would be candidates eligible to receive funding: brownfields, drinking water, urban river/waterfront cleanup, and the creation of parks and other public spaces. Drinking water (as cities need to improve infrastructure to meet the requirements of the Safe Drinking Water Act) and brownfields are two areas that cities continue to seek assistance for financing. Our preference is to be more inclusive and allow municipalities increased flexibility to identify their priorities. However, there should be attention paid to how this financing would intersect with other Administration initiatives like the Clean Water Action Plan, Drinking Water Revolving Loan Fund, and TEA-21.

*Urban River Corridors and Wetlands Restoration Projects. EPA proposes urban river corridor and wetlands restoration efforts tailored to improve the human health and economic opportunities in urban communities. To date, EPA has made small grants to a number of cities and municipalities for these types of projects. With additional grants to local communities, the Agency could provide the necessary funding for projects to improve community water resources. These projects would provide employment opportunities for residents, benefit the economic welfare and technical competence of local residents, and empower the community to build for a better future. Restored areas can serve to attract and sustain business as well as provide outlets for recreation.

*Community Preference and Visualization Tools. Building the social capital necessary to change transportation and land-use policies to create more livable communities also requires tools that the average citizen can use to understand the implications of major policy choices. EPA proposed to act as a catalyst in the development and use of such innovative decision making tools. The types of tools would include: 1) Community Preference Surveys, which show communities pictures of different neighborhood types, and help the community reach a consensus about the types of development that are desirable; 2) simulation tools, which would get a community "development ready" or help a community experiment with alternatives that have been proposed; and 3) new software, accessible to the public as well as urban planners, to view and evaluate alternative urban designs for any community.

*Asthma Initiatives. Through better implementation and new investments, EPA believes the Federal government can take action that will show immediate and long term results to reduce asthma rates among children.

*Air Quality Credits. EPA proposes to provide incentives to transportation planning by developing protocols for potential air quality credits toward state attainment plans for locally-initiated strategies and projects that create less auto-dependent communities. Similarly, the Agency proposes to create the next generation of the Clean Air Brownfields Partnership Pilot by continuing and expanding its ongoing efforts to link air quality goals and brownfields/infill redevelopment. After 2000, EPA proposes to partner with cities that have a significant brownfield site in the decision-making phase of redevelopment, work with the city, state, and developer to come up with a project design that maximizes air quality benefits, and allow credit for these activities under the State Implementation Plan.

3. Job Creation in Distressed Communities.

*Local Infra structural Improvement and Economic Revitalization Fund. Emil forwarded this idea to establish a Federal grant program to fund local Infra structural improvements. This would spark revitalization of declining or stagnant low-income areas by providing funds to upgrade local infrastructure. These Federal dollars could leverage State, local, and private funds for such Infra structural efforts.

*Community Revitalization Tax Credit. LISC proposes a Community Revitalization Tax Credit (CRTC) --similar to the Low-Income Housing Tax Credit --to help stimulate private-sector investment in commercial property in under served neighborhoods.

*Community Development Corporation Tax Credit. In 1993, we put in place a demonstration tax credit for investors in 20 CDCs. According to this report for Bruce Katz shop at Brookings, this program has been effective. We could propose expanding this CDC tax credit to more areas. The author of this report also proposes some changes to make the tax credit more effective.

*Expand and Rationalize Employer-Side Tax Incentives. This includes EZs, Welfare to Work, WOTC, DC Jobs Credit.

*Working Ventures Fund. Fund one or more national non-profits to fund, evaluate, share best practices, develop networks, and link non-profits to their business community, in the job training and placement field, as LISC and Enterprise do in the housing

*Community Empowerment Fund. a) Include targeting for welfare to work projects; b) allow links to venture capital focused on minority-owned or small business in distressed areas; c) eliminate mandatory pledge of CDBG dollars for CEF loans.

*Metro Jobs/Community Development Corporation (CDC) Links. Would target job-poor but CDC-served central-city neighborhoods to create or strengthen a welfare-to-work infrastructure that is place-based but people-focused and regional in orientation (where the jobs are). . Would build on HUDs Bridges to Work and complement DOL and HHS efforts, focusing on concentrations of assisted housing run by CBOs.

4. Low Income Savings.

*Asset Development for Section 8 Voucher Recipients. Currently, an individual still sees the size of their subsidy reduced for each extra dollar he/she earns. This new idea from Liebman and Orszag would roll-over any savings --or a part of the savings --from an individual earning more money into an Individual Development Account (IDA). That is, if the size of a persons Section 8 voucher is reduced by about 30 cents for each extra dollar he/she earns, we could put this savings --up to 30 cents --in an IDA. We could also the capabilities created by EFT 99 to electronically transfer money to efficiently establish IDAs for more Americans.

*Brownfields Meets Community Development. Under this proposal, we would push banks to invest in brownfields as part of their CRA commitments.

5. Affordable Housing.

*Elderly Housing Initiative. 1) Housing modernization grants to existing elderly housing

projects for modernization, physical redesign, and/or conversion to assisted living; 2) Expanded and more flexible service coordinator grants to meet needs of increasingly frail population in public and assisted housing; 3) authority for PHAs to use vouchers for the housing component of assisted living costs.

*Regional Affordable Housing Initiative. Targeting regions with severe jobs-housing imbalance and established partnerships for regional collaboration, HUD would provide grants and loan guarantees to support planning, regulatory streamlining across jurisdictions, and development.

*Vouchers. An expanded request will focus on incrementals, welfare to work, and homeless.

6. Promoting Homeownership In Distressed Communities.

*Low-Income Homeownership Tax Credit. Self-Help --a community group in North Carolina --proposes a tax credit for investors who provide second mortgages to low-income families. This could significantly reduce the barriers to homeownership among low-income families, who do not really benefit from the home mortgage interest deduction.

*Increase Allocation of Mortgage Revenue Bonds. Each state receives a supply of tax-exempt mortgage revenue bonds. These bonds help low-income families become homeowners and help develop affordable rental housing. There are currently 53 co-sponsors of legislation in the Senate and 316 co-sponsors of legislation in the House to increase the allocation of mortgage revenue bonds by slightly more than 50 percent and then index it to the rate of inflation.

*Expand Use of Mortgage Credit Certificates. Mortgage Credit Certificates (MCCs) are credits against federal income tax equal to between 10 and 50 percent of mortgage interest (to a limit of \$2,000 per homeowner) issued by state governments. MCCs count against states ability to issue mortgage revenue bonds. We could propose to expand the MCC program to allow the limit to be \$4,000 for homeowners in EZs or ECs. We could also propose allowing states to not have to count MCCs against their mortgage revenue bond base.

*First-Time Homebuyer Tax Credit. The 1997 tax law put in place a \$5,000 tax credit for first-time homebuyers in the District of Columbia. To boost homeownership in Empowerment Zones, we could propose allowing any first-time homebuyer in an EZ to take advantage of this tax provision.

*Historic Homeownership Assistance Tax Credit. The National Trust for Historic Preservation proposes a 20-percent tax credit to homeowners who rehabilitate or purchase a newly rehabilitated historic home and occupy it as a principal residence.

*Homeownership Vouchers. Already authorized, would apply rental subsidies to mortgage-related expenses for first-time homebuyers who were Section 8 tenants.

EDUCATION

1. Class Size Reduction. Reintroduce Presidents proposal to reduce class size in grades 1-3 to an average of 18. Needs to be funded on the mandatory side. If necessary, we could combine this with a teacher quality/recruitment initiative, so that funds in the early years of the program are devoted to (1) incentives for people to enter teaching and/or (2)

teacher training and professional development.

2. School Modernization. Weve tried this on the mandatory side and weve tried this on the tax side. Assuming we dont get it this year, weve got to try again next year.

3. School Discipline/Safety. We are working on an overhaul of the Safe and Drug Free Schools Program, that will: (1) focus the program on comprehensive, proven approaches to improve school discipline and safety; (2) better target the funds to schools/communities with the greatest needs; and, (3) improve data collection and reporting, including school report cards on safety/discipline issues. Because the program currently spreads (small amounts of) funds around to almost all school, and because of its initial emphasis on keeping schools drug-free, the politics of this program will probably require that any shift in emphasis on greater targeting will require additional resources.

4. Teacher Supply and Quality. Here are three initial ideas for improving teacher quality. The first two came out of our initial discussions on the Presidents race report. We can decide down the road whether to keep them focused on high poverty schools, or make them more universal. We can also break out particular pieces of them into separate initiatives if we want to:

Make sure there are qualified teachers in high poverty schools. First, encourage and support state and local efforts to improve the preparation, certification, recruitment, selection, induction, retention, evaluation, reward and dismissal of teachers overall. Support necessary R&D on critical components of an upgraded system, such assessing teacher competence in the classroom. Second, work to end the practice of disproportionately placing and keeping unqualified teachers in high poverty schools. Require states to require prospective teacher to pass basic skills/subject matter tests (and help them develop more demanding assessments) in order to be licensed Prohibit school districts receiving Title 1 funds from staffing Title 1 funded classes (what about schoolwides???) with unqualified teachers, and bar those without an effective system for teacher evaluation (including removal of incompetent teachers) from receiving Federal (or just Title 1) funds. Require K-4 teachers in Title 1 schools to successfully complete training in teaching reading, and fund the training. Third, help attract and retain the best teachers for high poverty schools. Fund induction and continuing professional development programs in high poverty schools. Provide incentives for Board-certified teachers to teach in high poverty schools.

Recruit More Minority Teachers. Many believe that a major factor influencing childrens success in education is role models. Enhance current recruitment programs with effective incentives to attract more minorities to the teaching profession. Minority teachers, administrators, and school personnel serve as role models for minority students and can provide an important link between schools and parents.

*Establish subject-specific teacher/administrator training institutes/academies/centers in every state. There are crying needs to train existing teachers in key subject areas, such as reading, technology use, math/science and other academic subject. We should establish subject specific training centers in each state (or perhaps in geographic regions within states). The idea is to create a place, probably at a university, that has the subject-matter capacity and can work with school systems to develop and implement a strategy for ensuring that every teacher who needs it gets high quality, intensive and ongoing training in the subject and how to teach it. This could either substitute for or complement the current teacher training program (Eisenhower Professional Development

Program), which provides funds to states and school districts on a formula basis, with broad discretion on how the funds can be used for professional development. We could also establish training centers for principals and other school leaders.

Continuing the Troops to Teachers (TTT) program (due to phase out in Oct 1999). TTT provides stipends to encourage retired military personnel to teach and school districts to hire and train them. TTT attracts more minorities and men into the teaching profession than are traditionally represented, they have background in understaffed subjects such as math and science, and are more willing to teach in inner-city classrooms.

5. Recruiting and Training Principals. Most states and communities lack good strategies for recruiting and preparing individuals with the knowledge and skills to provide the kind of leadership and management schools need right now. We could propose a competitive demonstration program to provide focus, leadership and effective models for the field. This would not be a big-ticket item.

6. Urban/Rural Initiative. This could take two forms. One would be some version of Education Opportunity Zones--a competitive grants program that rewards performance and requires accountability. A second would be to create local performance partnerships, in which local communities agree to create schools that are safe, have high standards and qualified teachers, after-school programs, tutors and other forms of extra help for kids, technology, etc. The districts would be responsible for creating schools with these opportunities, and would be accountable for improving achievement across the board (perhaps as measured against national standards). In return, the districts would (1) be able to combine funds from relevant ED and other programs, so they can figure out the best way to provide the learning opportunities; (2) get extra funding over and above the funding from the existing categorical programs; and (3) gain or lose additional funding based on performance (with some floor established to minimize the risk for districts).

7. Choice Demonstration Program. Establish a demonstration program to challenge states and school districts/cities to expand the range of high quality schools students and families can choose among, thereby enabling students in low performing schools to move to better ones. A variety of approaches should be encouraged, including:

Community College Enrollment. High school students should be permitted to enroll in community colleges, for high school level or college level courses. This step could provide inner city students with access to more qualified teachers, because most community colleges have faculty with subject matter expertise (whereas urban high schools often have teachers teaching out of field). It could also help boost minority enrollment in college. [see if this can build on existing tech-prep programs, or other articulation agreements.]

Contract School System. Transform urban school systems from bureaucracies which operate large numbers of schools into systems in which the local governing body contracts out the operation of each school--to teachers, nonprofits, school management firms, etc. In effect every school becomes a charter school, with a distinct mission, control over its own staffing and budget, and accountable for results. The local school board is responsible for selecting the schools, identifying new types of schools that might be needed and soliciting proposals to operate the school, monitoring the performance of each school and holding it accountable. Under this approach, all schools would eventually be schools of choice. [see Paul Hills work for background on this]

Schools located at large employers. Encourage large employers to provide facilities on

site for schools for children of their own employees, while the school district provides the teachers, curriculum, instructional materials, etc. Dade County's Satellite Learning Centers provide the model for this approach. Dade's experience shows that these schools can (1) be more diverse than other schools, because work sites are more diverse than residential neighborhoods (2) save the school districts the cost of new facilities (3) save employers costs associated with employee turnover and (4) increase parental involvement in the schools.

Expanding choice through smaller, schools-within-schools. Transform large, impersonal schools into smaller schools-within-schools that would dramatically expand choices within public education for families without requiring students to leave their neighborhoods. Many parents want more choice in education but don't want to send their children to school far from home. This proposal would address that need and enable many more students to get the personalized learning attention that so many families want; it also may reduce discipline and violence problems. A grants program could support networks of schools or school districts to plan and implement this concept and provide information and counseling to help students and their families make good choices. This proposal could be linked or combined with the "contract" schools concept by creating a competitive process to award contracts to manage each school-within-a-school to teachers, non-profits, charter schools, etc.

8. English Language Acquisition. As part of the planned overhaul of the Bilingual Education Program, we should consider a number of initiatives:

Make every LEP child competent in English within 3 years of obtaining services. English language competency is the key to success in schooling and the economy. ESL and similar services should be made universally available to all students who need them. Federal funding can provide matching grants to States to do this. The requirement--including funding and accountability--for serving LEP kids and helping them become competent in English within 3 years should be built into the Title 1 program. Other programs, such as after-school and technology, should also be designed so that in schools with significant numbers of LEP kids, they are also focused on helping kids learn English within 3 years.

* Support English Plus. In addition to ensuring that all LEP students learn English, we should promote foreign language learning, starting in the early grades, for students whose native language is English. The objective is to dramatically increase the number of students who leave school fluent in two or more languages, regardless of their native language.

Support demonstrations of, and if effective greatly expand "Newcomer High Schools" for recently arrived immigrant students. Many school districts are facing an increasing number of secondary immigrant students who have low level English or native language skills, and in many cases, have had limited formal education in their native countries. In order to prevent these students from dropping out (and these children are a significant factor in the 40% Hispanic drop-out rate), these students must learn English, take the required content courses and catch up to their U.S. peers. Some district have developed Newcomer programs --either a separate school or a school-within-a-school. These programs typically educate students for a limited period of time (most for less than two years) before enrolling them in their home schools. Three such schools are 4-year high schools. The programs reach beyond the students themselves, providing classes to orient parents to the U.S. and 63% offer adult ESL classes. There are currently 75 such programs in 18 States and the Center for Applied Linguistics has sponsored an evaluation of their effectiveness.

9. Quality pre-school education. We can propose an initiative to make quality pre-school universally available, or at least universally available for poor kids. There should be two key components to this. One is to provide a number of funding streams to pay for it. Head Start should be the base, though we should also look at ways in which Title 1 could play a larger role. Second, we should provide incentives to both preschools and school districts that receive federal funds, to work together to help ensure that the preschools programs are focused on helping kids get ready for school, by requiring the schools to reach out to preschools and let them know what they expect kids to know and be able to do when they come to kindergarten, and by giving the preschools the help they need to provide an appropriate curriculum.

10. Federal Matching Funds for AP courses and for AP and SAT/ACT Preparation. The President has made universal access to two years of higher education a priority, and has created ways to alleviate the financial hurdles. A logical next step in improving the quality of access is to make all students more competitive by closing the gaps in advanced course availability as well as SAT and ACT test scores. The Federal government could establish funding matching mechanisms to encourage states to improve access to AP courses and preparation for AP tests in low-income schools; in areas where AP courses are not available, funds could be used for partnerships with community colleges that offer similar courses. Similarly, matched funds could be used to do one of a number of things for SAT/ACT preparation: pay for low-income youth to attend prep courses (e.g., Kaplan; Princeton Review); fund poor school districts to set up their own test prep programs; as in America Reads, waive the federal match for Work Study students who help prepare disadvantaged students for the tests.

11. "High Hopes" for Adults. While the President has made enormous progress in making available resources for higher education for people of all ages, the primary focus of Administration informational campaigns and initiatives like High Hopes have been to encourage young people to go to college. A new initiative could combine two efforts. First, the Administration could launch an informational campaign encouraging adults to go back to school and inform them of new resources available to help, including Lifetime Learning and Hope Scholarship Tax Credits, Individual Training Accounts under the new Workforce Investment Act, and Pell Grants (which apparently few realize can be used for part-time students). Second, a new "High Hopes" grants program targeted at adults, partly focused on encouraging minorities and women to go back to school, could support local partnerships of business, community colleges, labor unions, one-stop centers and others to provide the information and counseling needed to encourage and assist adults to enroll in courses and programs that will help them succeed in their local job market.

12. Encourage High Schools to Offer/Require Service Learning. We should consider expanding the service learning initiative (Learn and Serve) to encourage more school districts to incorporate service into their education programs. The service learning program could be expanded to provide a stronger infrastructure, e.g., service coordinators for high schools, in order to make the service experience both more rewarding and educational for students.

HEALTH

1. Long-Term Care and Medicare Reforms for Elderly, Disabled and Their Families.

Long-term care tax credit. Along with the lack of coverage of prescription drugs, the poor coverage of long-term care represents a major cost burden for the elderly and their families. Long-term care costs account for nearly half of all out-of-pocket health expenditures for Medicare beneficiaries. This proposal would give people with two or more limitations in activities of daily living (ADL) or their care givers a tax credit of \$500 (or more, if affordable) to help pay for formal or informal long-term care. This initiative would be coupled with other long-term care policies (e.g., offering private long-term care insurance offering to Federal employees). (Cost: About \$4 billion over 5 years, offset by closing some tax loopholes, and would help about 3.4 million people).

Offering private long-term care insurance to Federal employees. Since expanding Federal programs alone cannot address the next century's long-term care needs, the Federal government --as the nation's largest employer --could illustrate that a model employer should promote high-quality private long-term care insurance policies to its employees. Under this proposal, OPM would offer its employees the choice of buying differing types of high quality policies and use its market leverage to extract better prices for these policies. There would be no Federal contribution for this coverage. (Cost: Small administrative costs; OPM estimates about 300,000 participants).

Tax credit for work-related impairment expenses for people with disabilities. Almost 75 percent of people with significant disabilities are unemployed; many of those within the population cite the cost of employment support services/devices, as well as the potential to lose Medicaid or Medicare coverage, as the primary barriers to seeking and keeping employment. This proposal, strongly advocated by your Task Force on Employment of Adults with Disabilities, would give a 50 percent tax credit, up to \$5,000, for impairment-related work expenses. It could be a stand alone proposal in the budget or packaged as a long-term care initiative if we decide to defer announcing the long-term care tax credit. (Cost: About \$500 million over 5 years, offset by closing tax loopholes, and would help about 300,000 people).

New Family Care giver "One-Stop-Shop" Support Program. About 50 million people provide some type of long-term care to family and friends. Families who have a relative who develops long-term care needs often do not know how to provide such care and where to turn for help. This proposal would give grants from the Administration on Aging to states to provide for a "one-stop-shop" access point to assist families who care for elderly relatives with 2 or more ADL limitations and/or severe cognitive impairment. This assistance would include providing information, counseling, training and arranging for respite services for caregivers. (Cost: About \$500 -750 million over 5 years).

Adding prescription drug coverage to Medicare (new policy). The lack of coverage for prescription drugs in Medicare is widely believed to be its most glaring shortcoming. Recognizing the medical community's reliance on prescriptions for the provision of much of the care provided to Americans, virtually every private health plan for the under-65 population has a drug benefit. Medicare's lack of coverage is largely responsible for the fact that drug costs are the highest out-of-pocket cost for three out of four elderly. This burden will only become more acute in the next century as the vast majority of advances in health care interventions will be pharmacologically-based. Responding to this fact, Republicans and Democrats on the Medicare Commission, as well as almost every health care policy expert, are consistently stating that reforming Medicare without addressing the prescription drug coverage issue would be a mistake. We are developing a wide variety of options, including a means-tested option, a managed care benefit only approach, and a traditional benefit for all beneficiaries. If desirable, a proposal could be included in

the budget or coordinated with the March release of the Medicare Commissions recommendations. (Cost: Varies significantly depending on proposal, but could be \$1 -20 billion a year; assumed offset would be Medicare savings, which might more easily be achieved in context of a broader reform proposal).

* Cancer clinical trials demonstration (FY 1999 budget; not passed). Less than three percent of cancer patients participate in clinical trials. Moreover, Americans over the age of 65 make up half of all cancer patients, and are 10 times more likely to get cancer than younger Americans. This proposed three-year demonstration, extremely popular with the cancer patient advocacy community, would cover the patient care costs associated with certain high-quality clinical trials. (Cost: \$750 million over 3 years).

* Redesigning and increasing enrollment in Medicare's premium assistance program (extension of July executive action and new policy). 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 the new, BBA provision that is supposed to help higher income beneficiaries. We are developing a range of proposals that build on the President's actions in this area to better utilize Social Security Offices to educate beneficiaries about this program, to reduce administrative complexity for states and to give them incentives to engage in more aggressive outreach efforts. (Costs vary depending on policies; probably about \$500 million to \$2 billion over 5 years).

2. Health Insurance Coverage Expansions.

* Providing new coverage options for people ages 55 to 65 (FY 1999 budget; not passed). Americans ages 55 to 65 have a greater risk of becoming sick; have a weakened connection to work-based health insurance, and face high premiums in the individual insurance market. This three-part initiative would: (1) allow Americans ages 62 to 65 to buy into Medicare, through a premium designed so that this policy is self-financed; (2) offer a similar Medicare buy-in to displaced workers ages 55 and over who have involuntarily lost their jobs and health care coverage; and (3) give retirees 55 and over whose retiree health benefits have been ended access to their former employers health insurance. A proposal such as this would be minimally necessary for any serious consideration of proposals to raise Medicare's eligibility age. (Cost: About \$1.5 billion over 5 years, which would assist about 300,000 people).

* Health coverage for the temporarily unemployed (FY 1997 and 1998 budgets; not passed). Because most health insurance is employment based, job changes put families at risk of losing their health care coverage. Many families do not have access to affordable health insurance when they are between jobs because they work for firms that do not offer continuation coverage or cannot afford individual insurance. The proposal would provide temporary premium assistance for up to six months for workers between jobs who previously had health insurance through their employer, are in between jobs, and may not be able to pay the full cost of coverage on their own. (Costs depend on whether it is done as a demo (about \$2.5 billion over 5 years, which would help about 600,000 people) or nationwide (about \$10 billion over 5 years, which would cover about 1.4 million persons)).

* Children's health insurance outreach (FY 1999 budget; not passed and new policy). By the first anniversary of CHIP, we expect about 45 states to have CHIP plans approved. These new expansions have great potential to help uninsured children, but not if families do not know or understand the need for insurance. Moreover, over 4 million uninsured children are eligible for Medicaid today. Last year's budget included several policies to promote

outreach, including allowing states to temporarily enrolling uninsured children in Medicaid through child care referral centers, schools, etc; and allowing States to access extra Federal funds for childrens outreach campaigns. An additional proposal is to pay for a nationwide toll-free number that connects families with state eligibility workers. NGA is sponsoring this line for one year only; such a line is essential for the nationwide media campaign that we are planning to launch in January with the NGA and Americas Promise (Colin Powells group). (Cost: Between \$400 and \$1 billion over 5 years.)

* Parents of children on CHIP (new policy). Since children who are uninsured usually have parents who are uninsured, an easy way to target uninsured adults is to extend eligibility for Medicaid or CHIP to parents of children covered by these programs. This has been done successfully in some states, through Medicaid 1115 waivers, and would be a logical next step to covering low-income adults. (Cost: Depends on the proposal and assumed take-up rates by the states).

* Optional state coverage expansion through eligibility simplification (new policy). In the wake of welfare reform, Medicaid eligibility rules have become even more complex since states must cover people who would have been eligible for AFDC under the old rules. Additionally, Medicaid law allows states to cover parents but not adults without children --even if they are very poor. This proposal would allow states to opt for a pure poverty standard for Medicaid eligibility for all people (like we do for children) rather than the old categorical eligibility categories. Not only would such an approach simplify the Medicaid program for families and states; it would provide an opportunity for significant coverage expansion. While any change in Medicaid almost always raises concerns amongst some advocates, this proposal would be strongly supported by the Governors and advocates such as the Center for Budget and Policy Priorities. (Cost: Depends on the proposal and projected coverage expansion take-up rates).

*Voluntary purchasing cooperatives (FY 1997, 1998, and 1999 budgets; not passed). Workers in small firms are most likely to be uninsured; over a quarter of workers in firms with fewer than 10 employees lack health insurance almost twice the nationwide average. This results in large part because administrative costs are higher and that small businesses pay more for the same benefits as larger firms. This proposal would provide seed money for states to establish voluntary purchasing cooperatives. These cooperatives would allow small employers to pool their purchasing power to try to negotiate better rates for their employees. (Cost: about \$100 million over 5 years).

3. Increase the Indian Health Service budget. In order to reach more of the targeted population, we should provide a significant increase to the IHS budget in order to address areas such as substance abuse, elder health care, injury prevention, domestic violence and child abuse, and sanitation facilities.

HOMELESS

1. Homeless Veterans. The National Coalition of Homeless Veterans estimates that there are as many as 275,000 homeless veterans on any given night. According to the Department of Veterans Affairs, an approximately \$60 million increase in funding would constitute the single largest investment into breaking the cycle of homelessness among veterans. This proposal would seek to increase 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. The VA estimates that this proposal would positively impact approximately 100,000 to 150,000 veterans annually.

2. Allow VA to sell surplus property with 10 percent of proceeds going to homeless veterans. OMB proposes to amend the Property Act of 1949 to create a 5-year pilot project for the VA to sell off property with 10 percent of the proceeds going to local homelessness projects under the McKinney Act (with this 10 percent being earmarked for homeless veterans) and the other 90 percent going to the VA for capital funds (buildings, equipment, infrastructure, but not staff). Currently, the way the law works is that all the proceeds from surplus property goes to homelessness, but this has not provided an incentive to the agencies to sell property because they do not get to keep any of the proceeds. OMB states that since 1989, only one piece of property has been sold under this provision. OMB will be circulating their proposal within a couple of weeks. OMB would propose to permit VA to sell 25 pieces of property, but does not have a cost estimate yet.

3. Homelessness Demonstration Project Modeled after TANF. Funds could be set aside in the FY2000 budget to create a demonstration project so that one state, region, or locality could try to move persons from homelessness to self-sufficiency. The demonstration project should set up performance goals similar to TANF so that there is a measure of how many persons have been made self-sufficient. There could be a performance bonus for the demonstration project if the goal of the project is met.

4. Medicaid Outreach Project for Homelessness. A Medicaid outreach project could be set up, similar to the CHIP outreach project, that would reach out and cover homeless persons. We should develop a cost estimate to determine that, over time, dollars would be saved if persons are treated under Medicaid rather than on an as-needed basis in emergency rooms and clinics. This idea could be expanded to reach out to more than simply the homeless population to include all groups who are Medicaid-eligible.

TOBACCO

1. Tobacco Counteradvertising. Fund a \$200 million per year tobacco counteradvertising and education Campaign, as proposed in the Presidents 1999 budget and McCain legislation. This campaign would develop counteradvertising and purchase enough media time to reach teens at least four times a week. The campaign would also fund an extensive school-and community-based anti-tobacco education campaign.

2. Industry Documents. As the result of the Presidents directive, we expect to receive a plan from HHS in October outlining how to make tobacco industry documents more accessible to the public. Follow up work will be needed to implement this plan. While we can probably secure some private funding for this purpose, it is likely that federal funding will also be needed.

3. Tobacco Cessation. Each year, 20 million smokers attempt to quit, but only 1 million, or 5 percent, succeed. More than 90 percent smokers who attempt to quit do so on their own, and the vast majority fail within 2 to 3 days. However, research shows that effective cessation methods could raise success rates to 10-20 percent (over 2 million people annually). The Agency for Health Care Policy and Research (AHCPR) endorsed 5 smoking cessation methods that have been proven to be effective in helping people to quit: gum, patch, nasal spray, inhaler, and pill (Zyban). A full course of these treatments costs

around \$200-300 (for a three months supply, without counseling). However, less than half of managed care organizations provide coverage of any AHCPR-approved therapies, and those that provide coverage may impose cost-sharing requirements that hinder access to treatment. In fact, a study of managed care in Washington State found that eliminating copayments for smoking cessation services significantly increased participation rates.

These proposals to help current smokers quit could be coupled with our continued call for comprehensive legislation to stop children from smoking before they start. Total combined cost of all these initiatives: \$855 million over 5 years. We could make a series of proposals, some part of the budget and some not: (1) Fall --announce new DOD anti-tobacco plan, and new DOL and OPM tobacco-free workplace programs; (2) Winter --propose Medicaid and Veterans coverage of cessation benefits through FY2000 Budget; and (3) Spring --tax coverage of cessation as a medical expense and expanded coverage of cessation benefits in FEHBP.

* New Department of Defense anti-tobacco plan. This plan is still being vetted at the agency but will likely include covering over-the-counter nicotine replacement therapies under military health care coverage as part of a comprehensive military-wide anti-tobacco plan. Cost: \$60 million per year.

* Anti-tobacco workplace initiatives by DOL and OPM. DOL could expand its drug-free workplace initiative to provide information to employers on steps they can take to reduce tobacco use among employees (cost: \$63,000 per year). OPM could disseminate a model workplace cessation program for all federal agencies (agencies would use existing appropriated funds).

* Medicaid coverage. Currently, smoking cessation prescription and non-prescription drugs are optional state benefits under the Medicaid statute. We could propose to require states to cover cessation, as the McCain bill did (CBO estimated cost: \$120 million over 5 years, HCFA estimated \$114 million). Alternatively, we could propose an enhanced federal matching rate for smoking cessation treatments, in order to offer the states an incentive to cover these services. The Hansen-Meehan bill establishes a 90 percent match rate for state costs of smoking cessation services at an estimated cost of about \$110 million over 5 years. Currently, 23 states cover Zyban, 6 states cover non-prescription treatments, and 5 states cover cessation counseling. A study by the Center on Addiction and Substance Abuse at Columbia University found that over 42 percent of Medicaid recipients smoke, as compared to 25 percent of the general population and that nearly 10 percent of all Medicaid hospital days are attributable to smoking.

* Veterans. We should re-propose the plan from the Presidents 1999 budget which created a new discretionary program open to all veterans who began using tobacco products while in the service, regardless of their eligibility for other VA health care services (currently less than 15 percent of veterans receive their health care through the VA system because of statutory limits --veterans must be low income or have a service-related injury.) The VA would contract with private sector entities to furnish AHCPR-approved services to interested veterans. OMB estimates that this proposal would cost \$87 million for the first year, and \$435 million over 5 years. Thirty-six percent of the 25 million veterans in this country smoke.

*Tax Treatment. Currently, the cost of cessation treatment cannot be claimed as a deductible medical expense because the IRS does not recognize smoking or tobacco addiction as a "disease." The IRS has indicated in written opinions that an official medical

authority classification of smoking as a disease would allow cessation to deduct these expenses. Treasury is interested in pursuing this in 1999. This would be done outside of the budget.

* Federal Employees Health Benefit Program. We could require enhanced coverage of smoking cessation services. One option is to raise coverage limits to more accurately reflect the cost of AHCPR-approved treatments, and to raise the number of treatments allowed per lifetime to account for the fact that the average smoker requires three to five cessation attempts before they successfully quit (i.e., require coverage of \$300-400 per treatment, with three maximum treatments covered per lifetime). Another option is to waive the deductible and copayment requirement for cessation benefits. Currently FEHBP fee for service plans, which cover 70 percent of beneficiaries, are required to provide only \$100 in smoking cessation benefits. Generally, this coverage does not kick in until after the calendar-year deductible has been met, and most plans restrict benefits to once per lifetime. Many plans only cover prescription drugs. HMO coverage of smoking cessation benefits varies greatly. This would be done outside of the budget, but would have to occur in the spring as part of OPMS annual letter to contracting plans, establishing the terms for the following year of coverage.

In addition to these efforts, any Medicare prescription proposal (see above) should include coverage of prescription cessation agents.

4. Expanded SAMHSA Survey. As the result of the Presidents directive, HHS will be including questions in their National Household Survey on Drug Abuse regarding brand-specific use of tobacco. This will allow us to determine which brands are most popular among youth, and help us identify which companies may be marketing to this population. Some federal funding will be necessary to support this expanded effort.

WELFARE

1. Helping the Hardest-to-Employ Get and Keep Jobs.

Extend Welfare-to-Work Grants and Strengthen Focus on Fathers. Funding for the \$3 billion grant program that the President fought for in the Balanced Budget Act ends in FY 1999. These funds are targeted at the hardest-to-place welfare recipients, and non-custodial parents of children on welfare, and at concentrated areas of poverty. 75% of the funds are allocated to states, who in turn pass them to local Private Industry Councils and 25% of the funds are available on a competitive basis. We expect DOL to propose extension of the grant program in their FY 2000 budget proposal. We should consider revising the statutory language to increase the focus on increasing employment of fathers. While there is a significant level of interest in serving this population, there is likely more we could do to increase the quantity and quality of services. This should also increase support from the Ways & Means committee as Shaw is very interested in fatherhood issues. Possible approaches include requiring states and communities to designate a minimum portion of WTW formula funds for fathers, setting aside a portion of competitive grant funds for this purpose, or earmarking funds for needed technical assistance and capacity building on this relatively new area. Other changes worth considering: shifting more funds toward competitive grants, increasing tribal set aside (currently 1%), and streamlining data collection requirements. Assuming level funding, this would cost \$1.5 billion annually.

* Request Additional Welfare-to-Work Housing Vouchers. We are unlikely to get the full 50,000 housing vouchers requested for FY 99. This approach continues to have merit, both

in helping families move from welfare to work and as a catalyst for changing the way local housing authorities, and HUD, do business. Cost to fully fund 50,000 vouchers is \$283 million. Some, including Deich and Edley, have also suggested allowing housing authorities to convert Section 8 vouchers that are turning over to the more flexible approach of the WTW vouchers.

* Invest in Increasing English Language and other Literacy Skills. There is evidence that those with low education levels have a harder time leaving welfare. There is also emerging evidence that English language may be a barrier for some minority welfare recipients, including immigrants. We may want to explore whether there is more the federal government could do to increase access to ESL and other basic education that is combined with work, though this does not necessarily have to be done with TANF funds. We need to first explore what is available, whether there are successful models that can be replicated, and what the demand is.

2. Helping New Workers Succeed in the Workforce/Achieve Self-Sufficiency.

There are several ways to ensure people moving from welfare to work can get to their jobs:

Request full \$150 million authorized for Access to Jobs for FY 2000 (TEA-21 set guaranteed funding from the Highway Trust Fund at \$60 million for FY 2000). This would allow DOT to fund more competitive grants. Note these funds can be spent on current and former welfare recipients, as well as families up to 150% of poverty so they help the working poor as well.

Donate surplus federal vehicles to welfare to work programs. These could be given, leased, or sold to current and former welfare recipients for whom public transit is not a viable option, including those living in rural areas. Cars could be allocated through community-based organizations or intermediaries. This could be modeled after the initiative to donate federal computers to schools.

* Help former welfare recipients access funds to purchase cars. In some areas, public transit is not a viable option for a family moving from welfare to work. In addition, owning a car is something many poor families aspire to, and something that helps them become part of the economic mainstream. Family Services of America, and other organizations, currently offer revolving loans for low income families to purchase cars. FSA's model currently operates in 20 sites and is scheduled to expand to 60 sites later this Fall, with partial funding from foundations and private financial institutions. They are also seeking federal funding to help with this expansion. Possible sources include: HUD, Treasury, DOL WTW grants, as well as existing federal and state TANF funds. Another option is to expand allowable uses of IDAs to include purchasing a car needed to go to work.

* Connection between TANF and Unemployment Insurance. There is growing interest in exploring the relationship between these two systems. Historically, few welfare recipients have qualified for UI, and some have essentially used AFDC as a form of unemployment insurance. As more welfare recipients joining the labor force, we need to consider the most appropriate way to provide income support to them between jobs. Various approaches include: (a) changing rules of the UI system that make it hard for former welfare recipients to qualify for UI once they go to work and in the event they lose a job and (b) creative uses of federal TANF or state MOE funds to provide income support to people in between jobs. Either approach should be accompanied by a strong effort to promote job retention and rapid re-employment. This could be considered as part of a more comprehensive UI reform initiative that NEC has been considering, but it would not depend.

on that. NOTE: NGA has a grant to explore this issue and several states are trying innovative approaches. While we do not have to frame the issue in terms of planning for economic downturns, it seems prudent to address this issue earlier rather than later.

* Optional State Coverage Expansion Through Eligibility Simplification (see Health section).

*Transitional Medicaid. Families can currently receive Transitional Medicaid for up to 12 months after leaving welfare, but only about 20 to 30 percent of eligible families are enrolled. The program has many procedural hurdles that make it more difficult to access than regular Medicaid coverage and the 12 months transitional period is too short for many families. The budget could eliminate some of the current prescriptive reporting requirements now in the law (that, for example, requires families to report earnings in the fourth, seventh, and tenth months of coverage and divides the 12 months of coverage into two 6 month segments with different co-pay and benefit rules) and allow states to provide a full 12 months of coverage without regard to changes in family circumstances, similar to the 12-month option for children that was adopted in the Balanced Budget Act. In addition, the budget could provide states the option of extending transitional Medicaid to 24 or 36. These ideas need to be fully discussed, vetted, and costed out. The current program reauthorization sunsets in 2001.

*Extend the Work Opportunity Tax Credit and Welfare-to-Work Tax Credits (WOTC has already expired and WTW will expire in 1999).

DISABILITY POLICY

1. Expanding the Defense Departments "CAP" program. The Defense Departments Computer Accommodations Program ("CAP") purchases equipment for DOD employees with disabilities to allow them to keep working if they become disabled, or for new employees just joining the workforce. By using a central \$2 million fund for such purchases, individual offices do not have to bear the cost within their own budgets, and are less likely to be deterred from hiring a person with a disability. CAP is also able to get better prices on equipment through its bulk purchases and expertise. It has a showroom to help employees try out appropriate adaptive devices (CAP makes the decision on what equipment is purchased, not the employee). It has provided over 9,000 accommodations since its inception in 1990. This program is a good example of how employers and employees are taking advantage of new (and increasingly cheap) technology, such as computers for the blind that talk and listen, and alternative computer keyboards for people with dexterity problems, that allow people with disabilities to work. Expanding the program has the strong support of the Administrations appointees with disabilities, in particular for Tony Coelho, chair of the President's Committee on Employment of People with Disabilities.

Defense has estimated that it would cost \$8 million a year to expand CAP government-wide, but this is likely overstated since CAP now serves the entire Defense Department for \$2 million a year. A more realistic range is \$2 -5 million a year. While having DOD perform this service for all federal employees is a bit unusual, they have a great deal of expertise at this task and they are ready to take on the added responsibility.

2. Tax Credit for Disability Related Expenses. [See "Health" section, above.]

3. New BRIDGE grant program. This program would provide incentives for state and local

agencies and private organizations to form interdisciplinary consortiums of service providers (employment, health, transportation, etc.) to better assist people with disabilities in going to work. NEC and DPC will receive revised proposal shortly from the Presidents Task Force on Employment of People with Disabilities and will evaluate and vet. Estimated cost for this three-year grant program is \$150 million a year.

4. Information and Communication Technologies for People with Disabilities. NEC has developed draft proposals now being vetted to ensure that new technologies will be designed from the beginning to be accessible to people with disabilities. Ideas include leveraging federal government procurement, investing in R&D, funding industry consortia, training the next generation of engineers, etc. (Tom Kalil is working on this, coordinating with DPC and OMB).

NATIVE AMERICANS

1. Create Native American Program at the Army Corps of Engineers. The Army Corps has a modest \$2 million proposal that would institutionalize Native American outreach within the Army Corps. Here is the proposal:

* Outreach (\$1.5 million). Market engineering, environmental, economic, project management, real estate, and resource management services to Tribes. Using existing workforce of 150 cultural-historical-Tribal specialists for support, establish Tribal Coordinators (1 per Corps of Engineers Division, 8 Divisions). Establish an Indian Desk in Corps Headquarters to work with Tribes, BIA, Corps districts (37) and divisions (8), and other federal agencies to leverage resources/programs.

* Training (\$250,000). Complete consultation guidelines. Complete Commander and senior leader video on Tribal matters. Develop a strategy for empowering Tribes in the areas of regulatory and natural and cultural resource management.

* Partnerships (\$250,000). Explore watershed planning opportunities with Tribes. Link to Clean Water Action Plan Activities. Develop model MOUs that can be used with Tribal Governments on strategies, protocols, and processes for addressing issues.

CRIME AND DRUGS

1. Crime Bill II. While the 1994 Crime Act is set to expire at the end of FY 2000, we should get ahead of the crime debate by including an outline of Crime Bill II in next years budget that emphasizes and builds on key Clinton crime initiatives. This includes: extending COPS; establishing community-based prosecutors, courts, and corrections; promoting targeted deterrence for guns, gangs, etc.; funding drug testing and treatment for all persons under criminal justice supervision; reauthorizing VAWA; creating police youth academies; and other new crime programs.

OMB has already built \$4.8 billion into the base for continued crime funding over the next 5 years, but this only includes \$400 million of the \$1.4 billion we have been spending on COPS and continued funding for other popular crime bill programs (i.e., VAWA, prisons, federal law enforcement, etc.). Thus, to keep crime bill funding at its current level --and to allow us more flexibility in proposing new programs --we will need \$1 billion more in the FY 2000 budget.

2. Expansions of Youth Crime Gun Interdiction Initiative (YCGII). This year it looks as though we will succeed in getting \$28 million in funding for Presidents YCGII initiative to trace all crime guns and hire more ATF agents to crackdown on gun traffickers in 27 cities. We should follow-up in the FY 2000 budget by expanding the YCGII to all cities with populations of more than 250,000. This would cost about another \$35 million. NB: Currently, treasury is only planning to propose adding another 10 cities in next years budget..

3. Expand Values-Based Initiative. At a minimum, we should seek funds in FY 2000 to continue the Administrations values-based crime prevention initiative in 16 cities --as well as to expand it to another 20 to 30 cities. This would only take about \$5 to \$10 million annually and could come from Crime Bill II funds if necessary. More importantly, however, we should propose changes to existing crime prevention and drug treatment programs to ensure that faith-based organizations are allowed to participate --and that common sense values are included.

4. Drug Treatment Parity. A long overdue policy change that we should consider embracing in this years budget is to require health insurers to guarantee some type of meaningful substance abuse coverage --much akin to what the Administration supported for mental health benefits.

5. School Shooting Response Fund. In our recent meeting with the communities impacted by multiple school shootings, one of the key recommendations made by all of the local leaders was that the federal government should establish an emergency fund that would allow communities that are overwhelmed by multiple victimizations to have the resources they need to facilitate the short-and long-term response. This includes year-long support for increased security and enforcement, investigations, media response, additional counselors, and other such costs.

CONSUMERS

1. Consumer Bill of Rights. A consumer bill of rights could address a number of areas such as enforcement, notice to consumers, and dissemination of information. We could announce this bill of rights as a package, but then pull out separate pieces for separate events like we do in the Patients Bill of Rights area. We could include a number of different areas such as the following:

* Auto Insurance Fraud. Auto insurance fraud is a \$13 billion-a-year problem in America. We could propose significant funding for a Justice Department anti-auto insurance fraud. Since an estimated 13 percent of auto-insurance premiums go to pay for fraud, we could claim that this effort will help drive down auto-insurance premiums.

* Slamming/Cramming. Cramming, in which con artists add bogus charges to consumers telephone bills, and slamming, the unwanted switching of long-distance telephone service from one carrier to another, and are the top two respective complaints reported to the National Fraud Information Center in 1998. In 1997, the FCC received more than 20,000 complaints from customers who were slammed. So far, the FCC has fined slammers, announcing a \$5.7 million fine this year, and announced voluntary guidelines for cramming that local telephone companies say they will follow. We could add money for enforcement to the FCC and/or DOJ. In May, the Senate overwhelming passed legislation that would impose new penalties on slammers and would eliminate common slamming methods, such as contest entry

forms that, when signed by unsuspecting customers, authorize a switch of their long-distance carriers.

*Telemarketing Fraud. Telemarketing fraud is among Americas worst white-collar crimes, robbing unsuspecting victims of an estimated \$40 billion per year. We could increase the FBI budget to increase investigations of this type of fraud. Recently, the Washington Post reported that volunteers from the American Association of Retired Persons (AARP) work undercover for the FBI, posing as potential victims to catch telemarketers on the prowl. Because telemarketing fraud often is targeted against the elderly, we could combine this piece with the elder abuse in a separate event.

*ATM Proposal. Weinstein proposes that Treasury publish an annual report on consumer financial issues, including ATM fees. In each report, Treasury would provide a list of insured financial institutions based on geographic divisions and by size. Treasury would report on the following categories: (1) Fees charged to depositors at ATMs at their home branches; (2) Fees charged by institutions to depositors using other banks ATMs; (3) Fees charged by ATM networks; (4) ATM fees charged to non-member depositors by institutions; (5) Minimum deposit requirements for checking and savings accounts; (6) Fees for overdrafts; and (7) Checking account fees. We will need to develop categories which underscore the differences in types of accounts. If we just list checking account fees, the fees that aren't reported would increase.