

NLWJC – Kagan

Hard Drive – Folder 8

April 8, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: BRUCE REED
ELENA KAGAN
TOM FREEDMAN

SUBJECT: KENTUCKY TRIP AND ROUNDTABLE WITH TOBACCO FARMERS

On Thursday, April 9, you will travel to Carrollton, Kentucky to meet with tobacco farmers, community leaders, and children. During this trip, you will reaffirm your commitment to protect tobacco farmers and their communities, while also emphasizing the need to reduce youth smoking. The trip will also allow you to express support for a plan to protect tobacco farmers authored by Senator Ford that is included in Senator McCains legislation.

Structure of the Trip

You will first travel to a tobacco warehouse where you will hold a roundtable discussion on how to protect farmers and their communities. In this discussion, you should note that Senator Fords proposal on tobacco farmers, contained in Senator McCains bill and detailed in this memo, is a strong proposal to protect tobacco farmers. You should not imply, however, that it is the only farming proposal you could support, or that you agree with every detail (or every dollar) of the proposal.

The participants in the discussion are expected to be: a local farmer; a farmer who represents growers statewide and has worked with the Campaign for Tobacco Free Kids; a minority farmer who has raised many foster children using her revenue from tobacco; the owner of the warehouse you are visiting, a student who wants to be a farmer; the head of the state farm bureau; a local religious leader; a community activist who has helped bring farmers and health advocates together; and Secretary Glickman. Governor Patton and Senator Ford will be present, but will not participate in the panel.

After the roundtable, you will travel to a school where you will talk to students about the need to reduce youth smoking. Governor Patton and Senator Ford will also speak at this event.

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Background on Kentucky Tobacco Farmers

There are two main types of tobacco -- flue-cured and burley. Burley tobacco is the primary crop in Kentucky, with revenues of more than \$800 million in 1997 for the nearly 450 million pounds grown. In 1997, approximately 70 percent of the burley tobacco produced in the United States came from Kentucky.

Tobacco is a major part of the Kentucky economy. Tobacco sales account for over 40 percent of the total crop revenue for Kentucky, and over 20 percent of all agricultural sales in Kentucky.

Many Kentucky tobacco farms are very small. The average Kentucky tobacco farm plants only 4.5 acres of burley tobacco. In contrast, flue-cured tobacco farms in North Carolina and South Carolina average 16.1 and 25.5 acres of tobacco per farm, respectively.

Notwithstanding the number of small tobacco farms in Kentucky, large farms dominate the States burley tobacco business. Last year, 70 percent of the total burley sold came from only 26 percent of the farms.

According to USDA, Kentucky experienced an abnormal year for its 1997 burley tobacco crop. Adverse weather conditions resulted in tobacco with high moisture content that was of generally low quality and received a lower prices than expected.

Tobacco Program Background

Since the 1930s, tobacco prices have been supported and stabilized by the federal governments commodity support program. One part of the program involves limiting supply through a quota program. A quota -- which can be sold, rented, or leased -- entitles the owner to grow a certain percentage of the national supply of tobacco for that year. Under the quota program, the government determines each year how much tobacco the companies expect to buy, how much will be sold overseas, adds a modest reserve, and then divides up the right to grow that full amount among the quota holders.

The tobacco program also guarantees an acceptable price at which farmers can sell their tobacco. The price-support system ensures that farmers can sell tobacco at a statutory minimum price to their cooperatives if companies cease to buy on the open market. In this program, the government loans funds to the cooperatives to purchase tobacco, with the loans repaid from the proceeds of future sales.

Producers of the different kinds of tobacco vote in triennial referenda to determine if they wish to continue the federal tobacco program for their kind of tobacco. In a referendum in late February, 97.5 percent of burley producers voted to continue the price support-production control program.

FF

The AGs Settlement Agreement

The settlement agreement with the Attorneys General did not outline a plan to compensate farmers for the diminished domestic tobacco sales that might result from comprehensive legislation. In evaluating the settlement agreement and laying out your five principles for comprehensive tobacco legislation, you insisted on the need to protect tobacco farmers and their communities.

Legislative Background

Two main approaches to the tobacco farming issue have emerged in Congress. The first seeks to maintain some kind of production control and price support system (though perhaps in a modified form), while compensating farmers for any decrease in the amount of tobacco sold due to tobacco legislation. The tobacco section of Senator McCains bill, sponsored by

Senators Ford, Hollings, and Frist, and detailed further below, is the primary example of this approach. The second, advocated by Senator Lugar, would buy out all current quota holders, and then subject tobacco prices to the free market. Senator Lugar's approach has little support among tobacco producers, but may become part of the Congressional debate as tobacco legislation moves forward.

Farmers Legislation Included in McCain Tobacco Bill

Senators Ford, Frist, and Hollings, the three members of the Senate Commerce Committee from tobacco-growing states, joined together to include a generous farmer provision in the McCain tobacco legislation. Their proposal also has the support of Senator Robb. While maintaining a production control system for all tobacco farmers, this package sets up somewhat different systems for burley and flue-cured tobacco.

For burley tobacco (grown mostly in Kentucky), the package includes an optional buy-out for quota holders at \$8 per pound, while retaining the basic quota system for those who do not take the buyout. To the extent that the national quota declines, the bill provides transition payments to remaining quota holders, lessees, and tenants.

For flue-cured tobacco, the plan provides for a mandatory buyout of existing quota holders, and replaces the quota system with a permit system that gives the new no-cost permits to active producers, regardless of whether they previously held a quota. This transfer of quotas from inactive quota holders to actual producers is intended to allow active farmers to sell tobacco without incurring the cost of buying or renting quota.

The McCain package also provides approximately \$500 million for assistance to tobacco-producing communities. The entire package costs \$2.1 billion per year for the first ten years and \$500 million for years 11-25 for a total of \$28.5 billion. For the most part, tobacco farmers are very pleased with the proposal included in the McCain legislation.

Below is a table with the major provisions for tobacco farmers in the McCain legislation.

Payments to Tobacco Farmers Under Proposed Legislation

Burley, fire-cured, and dark air-cured tobaccos
Flue-cured tobacco

Buy-out

Optional one-time buy-out at \$8/lb over 10 yrs or less

Mandatory buy-out of all quota holders at \$8/lb over 10 yrs or less

Those who remain in program --quota or permit

Those who do not take the optional buy-out retain their existing quota

Active producers will be issued a permit at no cost -- changing the old quota system to a new permit system for flue-cured tobacco, and allowing only active producers to stay in program. Permits may not be sold or leased, but may be transferred to descendants.

Payments to remaining quota holders who remain in system

Remaining quota holders get payments to the extent quota falls equal to \$4/lb for every

pound quota drops, with a lifetime limit of \$8/lb times the entire quota
No remaining quota holders

Lessees (burley), renters (flue-cured), and tenants (essentially sublessees)
Lessees and tenants get (1) option to acquire relinquished quota (if any), and (2) payments to the extent quota falls equal to \$2/lb for every pound quota drops, with a lifetime limit of \$4/lb times the entire quota

Renters and tenants get (1) permits to produce future crops, and (2) payments to the extent national quota falls equal to \$2/lb for every pound quota drops, with a lifetime limit of \$4/lb times the entire quota

Other Provisions:

Tobacco Community Economic Development Grants: Block grants to tobacco states will be made annually for rural business enterprise grants, farm ownership loans, initiatives to create farm and off-farm employment, long-term business technical assistance, supplemental agricultural activities, value-added agricultural initiatives, and compensation to warehouse owners. The program is authorized for \$375 million. At least 20 percent of the funds must be spent on agricultural activities, 4 percent on long-term technical assistance, and 6 percent on warehouse owners.

Benefits for Dislocated Workers: Up to \$25 million annually for 10 years will be made available to provide benefits based on the NAFTA displaced workers program. This program will be administered by the Secretary of Labor.

Farmer Opportunity Grants: Quota holders and active tobacco producers and their families are eligible for higher education grants of up to \$1,700 per academic year, adjusted upward every five years by \$300. Academic eligibility is modeled after Pell grants, and the program is administered by the Secretary of Education.

Total Costs: \$2.1 billion per year for the first ten years, \$500 million for years 11-25, for a total of \$28.5 billion.

*Annual payments to tobacco farmers set at \$1.65 billion annually for first ten years.

*Economic development grants set at \$375 million annually for first ten years.

*Assistance for dislocated workers set at \$25 million annually for first ten years.

Secretary Glickmans Trip to Kentucky

Secretary Glickman traveled to Lexington, Kentucky last Friday to attend a Farm Forum at Gentry Tobacco Warehouse with 600 to 700 farmers, government officials, and agribusiness leaders. The farmers were generally supportive of the Administration. Their main concerns were that the tobacco program be kept in place and that small farmers not be adversely affected.

Attachments

- *Background on General State of the Tobacco Industry (prepared by USDA)
- *Background on Farmer Portion of the McCain Legislation (prepared by USDA)
- *Highlights of Kentucky Tobacco Farmer Survey from February 10-19, 1998 (Campaign for Tobacco-Free Kids and the Kentucky Health and Agriculture Forum)
- *Maps showing the distribution of tobacco production in Kentucky
- *Regional Press Clips from Secretary Glickmans Trip to Kentucky

MEMORANDUM FOR ERSKINE BOWLES

THROUGH: Franklin D. Raines

FROM: Sally Katzen

SUBJECT: Heads-up on FDA Proposed Rule on Pediatric Labeling

We are about to conclude review of an FDA proposed rule that would require companies to study the effects on children of new and currently available drugs and biological products. Because some of these products are not adequately tested for use in children, their labels often fail to provide directions for their safe and effective use in children, and the absence of adequate pediatric labeling has resulted in children receiving inappropriate doses of drugs or experiencing unexpected adverse effects. In other instances, the absence of adequate pediatric labeling has led some physicians to refuse to prescribe otherwise helpful drugs because they have not undergone pediatric testing.

This proposed rule is the subject of a Presidential event tentatively scheduled for August 11th. The rule is expected to receive very positive support from the public. Many drug companies will refrain from criticizing the rule, but there will be some companies that may express concerns. Perhaps the most touchy aspect is the issuance of the rule while the FDA reform legislation is in a fairly active state on the Hill. If you have any questions or comments, please let me know.

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

April 1, 1999

MEMORANDUM TO DISTRIBUTION

FROM: Sharon Yuan

RE: NEC Deputies Meeting on Labeling Policy

Unfortunately, we will have to move the NEC Deputies Meeting on Labeling Policy to April 9 at 1:00 pm in Room 211. We apologize for the shifting of times.

DISTRIBUTION

David Aaron, DOC
David Beier, OVP
Joan Bernstein, FTC
Stuart Eizenstat, DOS
Sue Esserman, USTR
William Hubbard, FDA
Tim Geithner, TRS
Pamela Gilbert, CPSC
Elena Kagan, DPC
Robert Lawrence, CEA
Sylvia Matthews, OMB
Gus Schumacher, USDA
Kathy Woteki, USDA

April 16, 1998

MEMORANDUM FOR NEC/DPC DEPUTIES

From: Elena Kagan and Sally Katzen

Re: H1B visa legislation

The Administration has committed to pursuing both reforms to the H1B visa program and increased training opportunities for U.S. workers as part of any legislation that would temporarily raise the annual cap on H1B visas.

At the last Deputy's meeting, we discussed developing proposed legislative language for use in discussions with members of Congress. The attached is an attempt to articulate reform language that is consistent with the Administration's objectives. We hope to obtain sign-off on this language at a DPC/NEC Deputy's meeting on Friday, April 17, 1998.

This is for internal use only and will not be formally transmitted to the Hill.

I. Recruitment of United States Workers Prior to Seeking Nonimmigrant Workers

(a) IN GENERAL -- Section 212(n)(1) of the Immigration and Nationality Act (8 U.S.C. 1182(n)(1)) is amended by inserting at the end of the following new subparagraph:

(E)(i) The employer, prior to filing the application, has taken timely and significant steps to recruit and retain sufficient U.S. workers in the specialty occupation in which the non-immigrant whose services are being sought will be employed. Such steps shall include good faith recruitment in the United States using procedures that meet industry-wide standards and offering compensation as required by subparagraph (A) and such good faith recruitment must be unsuccessful.

(ii) The recruitment requirements of this subparagraph shall not apply to aliens with extraordinary ability, aliens who are outstanding professors and researchers, and certain multinational executives and managers described in section 203(b)(1).

(b) WAGE COMPARABILITY -- Section 212(n)(1)(A)(I)(I) of such Act is amended by inserting "plus the same benefits and additional compensation provided to similarly employed workers of the employer" after "actual wage level."

II. Nondisplacement of United States Workers

Section 212(n) of the Immigration and Nationality Act (8 U.S.C. 1182(n)), as amended by section 5, is amended by adding at the end of the following new paragraph:

(4)(A) The employer --

(I) has not, within the 6-month period prior to the filing of the application, laid off or otherwise displaced any United States worker (as defined in subparagraph (B), including a worker obtained by contract, employee leasing, temporary help agreement, or other similar basis, who has substantially equivalent qualifications and experience for the specialty occupation in which the nonimmigrant is intended to be (or is) employed; and

(ii) will not lay off or otherwise knowingly displace, during the 90-day period following the filing of the application, or during the 90-day period immediately preceding and following the filing of any visa petition supported by the application, any United States worker, including any worker obtained by contract, who has substantially equivalent qualifications and experience for the specialty occupation in which the nonimmigrant is intended to be (or is) employed.

(B) For purposes of this subsection, the term "United States worker" means --

- (i) a citizen or national of the United States
- (ii) an alien lawfully admitted to the United States for permanent residence; or
- (iii) an alien authorized to be employed by this Act or by the Attorney General.

(C) For purposes of this subparagraph, the term "laid off," with respect to an employee, means the employee's loss of employment, other than a discharge for cause or a voluntary departure or voluntary retirement. The term "laid off" does not apply to any case in which employment is relocated to a different geographic area and the affected employee is offered a chance to move to the new location with the same wages and benefits, but elects not to move to the new location.

(D) If during the six month period prior to filing an application for an H1B worker an employer of more than 100 U.S. employees lays-off more than 10% of its U.S. workforce or 500 people (whichever is fewer), the employer will not be eligible to apply for H1B workers unless it demonstrates to the Department of Labor that they are not seeking employees through the H1B program with substantially equivalent qualifications and experience to those U.S. workers laid-off.

III. Job Contractors

In the case of an employer that is a job contractor (within the meaning of regulations promulgated by the Secretary of Labor to carry out this subsection), the contractor will not place any H1B employee with another employer unless such other employer has executed an attestation that the employer is complying and will continue to comply with the requirements of this paragraph in the same manner as they apply to the job contractor.

IV. Create a new temporary visa program for highly skilled workers

At the last meeting there was a lot of interest in creating a new visa category for truly high-skilled workers. Whereas the H1B program requires a BA degree, or equivalent, the new program would require at least a masters degree or a bachelors degree plus five years of specialized experience.

The program would be designed as follows:

Establish a new temporary program (H1C) that is limited to use by non-immigrants with high level skills. This program would be subject to the same reforms that the legislation would impose on the existing H1B program and any application fees would also apply.

The H1C program would create 25,000 temporary visas for non-immigrants with high level skills. Each visa would last for three years.

October 8, 1998

MEMORANDUM

TO:Elena Kagan
Barbara Chow

FROM:Nicole Rabner

SUBJECT:Adoption Registry Attached to Omnibus Appropriations

As appropriations negotiations proceed, I want to alert you to a bill currently attached to omnibus appropriations. This bill, sponsored by Senators Levin and Craig, would give HHS authority to create a voluntary mutual reunion registry -- a centralized computer network to facilitate voluntary reunions of adopted persons with their birth parents and other members of their birth families. As you will recall, this bill had been attached last year to the Adoption and Safe Families Act of 1997, and the controversy that surrounds it stalled the passage of the adoption legislation. In fact, it took the intervention of the First Lady to persuade Senator Levin to drop this measure and allow smooth passage of the bill. At that time, The First Lady promised to meet with Senator Levin to discuss this proposal.

In his meeting with the First Lady last Spring, Senator reminded the First Lady that in October of 1994, Secretary Shalala sent a letter to Congress signaling that the Administration had no objection to the Levin proposal (letter attached). The Senator urged that if the Administration could not publicly endorse the bill, that we not oppose it either. We have maintained an official neutral position ever since (although HHS internally opposes the bill because they think it inappropriately involves them in private adoptions.) There are, however, strong, vocal forces that have for years opposed this bill on privacy grounds, arguing that potential access between birth parent and adoptee will have a negative affect on adoption.

This issue is likely to generate a fight between the House and the Senate, with Lott supporting the bill and Gingrich opposed. My strong recommendation is that we maintain a "do not oppose" position (which I have conveyed to Senator Levins staff, after receiving the attached note and materials). While the bill may not survive, we should play no role in helping to defeat it.

July 29, 1997

MEMORANDUM TO ANN LEWIS

FROM: BRUCE REED
ELENA KAGAN

SUBJECT: POTENTIAL AUGUST MESSAGE EVENTS

1. Welfare Reform:

*Anniversary of the Welfare Law. On August 22, the first anniversary of the signing of the welfare law, we hope to be able to release a report showing that the economy is producing more than enough jobs for those leaving the welfare rolls. We are working with HHS, CEA, and NEC to determine the feasibility and methodology of such a report, as well as who might author it.

*Statutory Rape Report. The Department of Justice is working on a report on the extent of the problem of statutory rape, a report required by the welfare law. The Attorney General will be reviewing the report and some related proposals shortly.

2. Healthcare:

*Race and Health. There are significant disparities in the health status of minorities in a number of areas including, AIDS, infant mortality, diabetes, and heart disease. Some existing programs that help narrow the gap between the health status of minorities and whites include, our immunization programs and other CDC prevention programs such as prenatal care and early childhood initiatives. Next week, HHS will be briefing the DPC on current Administration initiatives as well as possible new initiatives that will help improve the health status of minorities.

*Pediatric Labeling. To announce new HHS/FDA regulatory action that we are taking to ensure that drug companies test their products specifically on children who may need different doses and have different reactions and to ensure that parents are aware of this information. Children suffer from most of the same diseases as adults, however, most drugs have not been tested to understand their unique impact on children. The absence of pediatric labeling poses serious a serious risk of inappropriate doses and unexpected adverse effects in children. It also may lead to failure to provide children with optimal treatment in cases where physicians are reluctant to prescribe potentially toxic drugs to children before they have undergone pediatric testing. HHS and OMB are in their final stages of working out the details of this regulation.

*Kassebaum-Kennedy Signing Anniversary. August 21st marks the one year anniversary of the signing of the Kassebaum-Kennedy law which helps Americans keep their health care coverage when they change or lose their job. This law could help as many as 25 million Americans. We could do some kind of event or announcement surrounding this anniversary.

3. Crime:

*Sex Offenders Directive. Finally sign directive on federal sex offenders and issue letter to governors on importance and progress of national registry.

*Brady Report. If something breaks on Brady -- that is to say, if both AR and OH are solved -- we could do a small Brady message event where the AG and Rubin make a statement on Brady. Perhaps they could release an update/mini-report on how the vast majority of state and local agencies are still doing Brady checks or embrace some legislative

proposal. I'm not too optimistic about this option though. Things are still slow moving.
*Drug Event. Have McCaffrey and Shalala release the Household Survey and NIJ crack report do out in a couple of weeks, and emphasize the administration's overall commitment on the issue -- and particularly the Anti-Drug Media Campaign. Perhaps ONDCP could unveil some preliminary ads or media ideas.

*COPS Report. While I was hoping that we could hold this until the 9/13 Crime Bill anniversary, we could release a week or two early. However, the report still needs some work.

*Indian Law Enforcement Directive. The President could sign this directive, and the VP and/or the AG and Babbit could release it and talk about the problem at a press conference.

4. Service

*Presidential Memorandum. We may be able to release a Presidential Memorandum directing federal agencies to explore additional measures to expand service opportunities for federal employees (if it isn't a problem to release such a memorandum from vacation).

*Agency Progress. We should be able to announce progress by one or more federal agencies on our service summit commitments.

5. Education

*Education package for the fall. We've agreed to work with Congressional Democrats to develop a package of proposals that we can keep pushing throughout the fall. Among other things, I think we need to see this set as a way of promoting the standards/testing agenda to the public -- both with respect to demonstrating the steps we will take to help prepare kids to reach the standards, and the more general point that higher standards means better schools. Here's my preliminary list, based on our priorities as well as what we heard at our meeting last week:

*A Talented and Dedicated Teacher in Every Classroom. This would center on our new proposal to attract and prepare teachers for urban and poor rural areas. It can also incorporate our support for the National Board for Professional Teaching Standards, and any interest that might emerge on the Hill in training teachers to use proven and effective classroom practices.

*America Reads initiative. Even though it's not new, I think we need to include this for several reasons. First, we still have to pass it, and the fall will be a critical time to push for it. Second, pushing the basic skills is good politics and good message.

*School Construction and Renovation. I think this one is obvious.

*Fixing Failing Schools. This initiative should challenge states and/or cities to fix failing schools by (1) requiring and helping them to implement effective practices; (2) close them down and reopen them, possibly as charter schools; (3) keeping schools open for after-school, weekends, and summer programs so kids can get the extra help they need to catch up. Obey has about \$150 million in the appropriations bill that focuses on implementing proven practices; we should be able to work with these funds to get something going.

*Early Childhood/Child Care/After-School. The House Dems raised a range of issues here, from the quality of Head Start programs, to the benefits of helping local communities develop integrated and coherent approaches to meeting the needs of children and families, to helping suburban moms by providing a safe and supervised environment for pre-schoolers and elementary school kids while the moms are at work. We've got a fair amount to sort out on this before we proceed.

*Computers. Gene and Don Gipps both feel we need to move the technology initiative into sharper relief; we are supposed to meet on this at some point in the near future.

*Overall Urban Education Initiative. Under development in ED, this would focus on

standards, accountability (including dealing with failing schools), choice and charter schools, and improving the overall management of urban school systems.

*Testing strategy I think we will be in a better position develop a strategy for the next few months once we get past todays battle over the Goodling amendment, and once Riley gets back from NGA.

Nonetheless, it is likely that the following components will be folded into our strategy in some form: (1) awarding a contract within the next 6 weeks for the development of the tests; (2) creating an advisory/governing body in some fashion; (3) signing up more states and cities at some point; (4) having a fight with somebody over the tests--preferably in Alabama or some other state with a recalcitrant governor; possible in the Congress, and, hopefully not with our friends, such as the Black or Hispanic caucuses. In addition, we are likely to use the other K-12 issues we will focus on -- teaching, reading,

*Race Initiative Ive attached my latest set of issues we need to address in this context, mainly focused on urban education, and significantly overlapping with the list of issues above.

*Possible Events Heres a pool of event possibilities, some of which connect with the lists above:

*Paying for Higher Education (best shot for August 15 event). This could be a victory lap on the higher education portion of the budget/tax package, which presumably will be signed about a week beforehand. We can release EDs handbook for parents on how to prepare your kid for college (including how to pay for it) and highlight the significant financial aid from the federal government. There are other pieces we could add to this as well, including possibly announcing additional pieces of the Higher Education Act that we will be transmitting in the near future.

*Charter Schools. ED will be ready to announce 14 new grantees -- 7 states and 7 individual charter schools that applied independently because their states did not, by mid-August. Probably by September we can add the states that will get continuation funding from previous grants.

*Technology Grants. ED will have Technology Innovation Challenge grants to announce mid-September

*PBS Town Hall Meeting on Education. To be broadcast in the last week of September/first week in October as the culmination of a 5-episode, 5-week series, this will focus on standards, urban education and charter schools.

*Reading Initiative. Sept. 8th is International Literacy Day. The President can address this in a Saturday radio address, highlighting the family literacy aspects of the America Reads proposal, and release the literacy councils report on state and local profiles of adult literacy.

*Interagency Math Strategy. Responding to the Presidents directive last Spring, we can announce a strategy for preparing kids for the math standards, including new national Board for Professional Teaching Standards certification for middle-school math teachers, a TIMSS resource kit for local educators, and a national conference focusing on strengthening middle school math.

*Urban Initiative/Urban Testing sign-up. In mid-October there will be a joint meeting of the U.S. Conference of Mayors and the Council of Great City Schools. This will be an opportunity to sign more cities up, and to announce our urban initiative

July 13, 1995

MEMORANDUM FOR ALL STAFF OF THE OFFICE OF PRESIDENTIAL PERSONNEL, THE EXECUTIVE CLERK'S
OFFICE AND RECORDS MANAGEMENT

FROM: ABNER J. MIKVA
COUNSEL TO THE PRESIDENT

ELENA KAGAN
ASSOCIATE COUNSEL TO THE PRESIDENT

SUBJECT: Request for Documents

We have received a request for records related to the appointments of M. Larry Lawrence as Ambassador to Switzerland, and Shelia Lawrence as U.S. Representative to the World Conservation Union.

Please review your records and computer files and provide to Elena Kagan, Room 125, by 5:00 p.m. on Tuesday, July 18, 1995, any documents, records (memoranda, correspondence, notes, calendar or journal entries, or phone log entries) or other materials related in any way to the nomination or appointment of M. Larry Lawrence or Shelia Lawrence, including to:

- a) any proposed nomination or appointment for M. Larry Lawrence or Shelia Lawrence in the U.S. Government from 1991 through 1995;
- b) Mr. Lawrence's nomination or appointment as the United States Ambassador to Switzerland; and,
- c) Mrs. Lawrence's nomination or appointment as the U.S. Representative to the World Conservation Union.

To minimize the burden on individual staff members, we will collect any materials responsive to this request that have been forwarded to Records Management. If you have sent such records to Records Management, please alert Terry Good (6-2240) in that Office.

Please contact Elena Kagan at 6-7594 in the Counsel's Office if you have any questions.

March 5, 1999

MEMORANDUM TO THE CHIEF OF STAFF

CC: Doug Sosnik
Karen Tramontano

FROM: Bruce Reed
Elena Kagan

SUBJECT: Long Term Priorities

MAJOR PRIORITIES

1. EDUCATION

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

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

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

II. Presidential Actions:

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

III. Republican Agenda: ESEA is the centerpiece of the federal governments K-12 education

policy. This is a top priority item for Republicans, who will seek to have ESEA reflect their key education initiatives -- flexibility, block grants, and possibly vouchers.

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

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

II. Presidential Actions:

* See below

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

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

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

II. Presidential Actions:

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

* Release today of local allocations for Class Size program.

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

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

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

II. Presidential Actions:

* Events or statements coordinated with legislative action.

III. Republican Agenda: Republicans will try to push an alternative "school construction" proposal, which would change arbitrage provisions for school bonds. The school

superintendents organization supports this proposal; we will have to work hard to make the case that this proposal is fundamentally flawed (because the proceeds do not have to be used for school construction and go to districts that do not need assistance).

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

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

II. Presidential Actions:

* National Teacher of the Year event in April.

* FY 99 grants announcements -- e.g., after-school, charter school, teacher recruitment and quality, Gear-Up, technology.

- Reports on various issues -- e.g., charter schools, teacher quality, after-school.

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

2. CRIME

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

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

I. Legislative Status: We are preparing to introduce the Presidents omnibus crime legislation immediately after the congressional recess. Although we do not necessarily expect the crime bill to move right away, we want to take the offensive before Republicans gain any traction in attacking our budget proposals in this area or moving their own juvenile crime legislation.

a. March: Commerce-Justice State appropriations hearings scheduled for March 9th, 11th and 17th. Also, the Senate Judiciary Committee plans to hold a hearing to criticize our FY 2000 crime budget.

b. April: The Presidents proposed legislation should be transmitted to Congress no later than the first week of April.

c. June-July: Appropriations bills expected to be marked up by the full appropriations committees and sent to House and Senate floor for consideration.

II. Presidential Actions:

* March-April: We should build a drumbeat for the introduction of our crime bill throughout this month with a series of events and press leaks on key components of the bill. We recommend that the President unveil the entire bill in a speech to a police academy class over the Easter recess. Possible events/leaks include:

* Health Care Fraud: Tougher criminal penalties for obstructing a fraud investigation, and a crackdown on illegal kickback schemes.

* Telemarketing Fraud: Legislation to give federal law enforcement same power to block telephone service to telemarketing scam artists that we already have for illegal gamblers.

* Pension Fraud: A new federal crime for defrauding pension or retirement plans, and tougher penalties for embezzlement.

* Bioterrorism: New penalties for possessing, using or failing to report biological agents and toxins. (The President should announce this to the Firefighters on March 15.)

* Money Laundering: Treasury is finalizing a national strategy to crack down on money laundering.

* Gun Trafficking: New legislation to expand gun tracing of used firearms.

* Police Misconduct: Radio address March 13 outlining a list of proposals to deal with police integrity and racial stereotyping.

* May: During National Police Week (May 10-15), we propose that the President hold an event to commemorate funding of the 100,000th police officer under his COPS initiative. This represents one of the Administrations most important policy milestones. Thousands of police officers will already be in town that week to attend the Fraternal Order of Polices Peace Officers Memorial.

* June-August: Possible events/meetings with Mayors, law enforcement organizations, and other groups holding annual conferences to help build support for the crime bill.

III. Republican Agenda:

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

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

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

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

II. Presidential Actions:

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

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

3. HEALTH CARE

A. Patients Bill of Rights.

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

II. Presidential Actions:

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

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

B. Long Term Care.

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

II Presidential Actions:

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

III. Republican Agenda: There is a fair amount of bipartisan support for this legislation. We are trying to determine which Republicans on House committees of

jurisdiction are likely supporters, and we will reach out to these members.

C. Jeffords-Kennedy.

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

II. Presidential Actions:

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

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

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

I. Legislative status:

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

II. Presidential Actions:

- President, Vice President, and First Lady can amplify our message on the Medicare buy-in, especially given evidence that this problem has gotten worse since last year.
- Issue guidance to States to encourage them to conduct outreach to families leaving the

TANF program who are still eligible for Medicaid.

- The other policies can be amplified in the context of coverage issues generally.

III. Republican Agenda:

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

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

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

II. Presidential Actions:

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

III. Republican Agenda:

- Republicans tend to be supportive of Ryan White. It is unclear, however, whether they will support the CBC efforts.
- Last year, Congress put in more dollars in mental health than we proposed. If we can include the Republicans in our Conference and our other efforts, they may well support our proposed increase.
- The Republicans were not particularly responsive to the Race and Health initiative last year and wanted all of the increases to go into Community Health Centers. We will need to work closely with the groups to assure funding for this initiative.

F. Biotechnology.

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

I. Legislative Status: Senator Daschle, together with Senator Kennedy, is introducing a bill next week. There is some bipartisan interest on the issue, mostly on the health

insurance side (see below).

II. Presidential Actions:

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

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

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

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

II. Presidential Actions:

* Hold bipartisan event to highlight the need for Congress to pass strong privacy legislation and the ability of HIPAA to establish privacy protections for electronic medical records if Congress fails to do so.

* Assuming Congress does not pass legislation by this fall, take executive action on electronic medical records.

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

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

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

II. Presidential Actions:

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

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

ADDITIONAL PRIORITIES

1. CHILDREN AND FAMILIES

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

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

II. Presidential Actions:

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

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

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

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

II. Presidential Actions:

- * First Lady may hold events in the Spring.

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

2. TOBACCO

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

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

another vehicle.

II. Presidential Actions:

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

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

3. WELFARE REFORM

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

I. Legislative Status:

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

II. Presidential Actions:

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

III. Republican Agenda:

- * With the exception of the Fathers initiative within Welfare-to-Work, Republicans have not

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

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

I. Legislative Status: Legislation similar to the Administrations may be introduced by Sen. Moynihan and Rep. Levin. No hearings pertaining to this issue are scheduled. In the House, the Agriculture, Commerce and Ways and Means Committees will have jurisdiction. In the Senate both the Finance and Agriculture Committees have jurisdiction.

II. Presidential Actions:

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

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

4. CIVIL RIGHTS

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

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

II. Presidential Actions:

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

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

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

by Senator Harkin on comparable worth.

I. Legislative Status: Senator Daschles bill has 20 Democratic cosponsors, and Congresswoman DeLauros equivalent bill, H. R. 541, has 34. Senator Harkins comparable worth bill had eight cosponsors in the last Congress, while the House version garnered 64 cosponsors.

II. Presidential Actions:

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

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

5. COMMUNITY EMPOWERMENT

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

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

II. Possible Presidential Actions:

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

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

6. FOOD SAFETY

A. Congressional Action on Food Safety:

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

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

II. Presidential Actions:

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

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

7. POLITICAL REFORM

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

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

II. Presidential Actions:

* Invite sponsors to the White House.

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

LRM ID: MDH10

Tuesday, February 2, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO:Legislative Liaison Officer - See Distribution below
FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference
OMB CONTACT: Melinda D. Haskins
PHONE: (202)395-3923 FAX: (202)395-6148

SUBJECT:HHS Draft Bill on Child Support Enforcement -- Payments to States and Adjustment of Child Support Orders

DEADLINE:4 P.M. Thursday, February 4, 1999

RESPONSE:

☐☐

LRM ID: SGE3
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Tuesday, February 2, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO:Legislative Liaison Officer - See Distribution below
FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference
OMB CONTACT: Stephen G. Elmore
PHONE: (202)395-3924 FAX: (202)395-6148
SUBJECT:VETERANS AFFAIRS Draft Legislation: Veterans Budget Amendments of 1999

DEADLINE:3:00 p.m., Monday, February 8, 1999

RESPONSE:

☐☐

Record Type:HOWARD DENDURENT 2/2/99 -- RESPONSERecord JAB12

To:James A. Brown/OMB/EOP@EOP
cc:Sharon A. Barkeloo/OMB/EOP@EOP, Rosemarie W. Dale/OMB/EOP@EOP, Pamula L. Simms/OMB/EOP@EOP, Winifred Y. Chang/OMB/EOP@EOP
Subject:LRM ID: JAB12 TRANSPORTATION Draft Bill on Federal Aviation Authorization Act of 1999

Section 501 includes proposed section 44608(c) (page 33 of the draft bill) that establishes a Pilot Program for Capital Leasing Contract. The paragraph includes a provision that: "Such leases shall be scored for budgetary purposes on an annual lease payment basis." This is characterized as "a departure from standard federal accounting principles" in the

draft letter (page 3). Inclusion of this language in the bill and in the letter is totally unacceptable to BRD. As Gail Zimmerman stated in her e-mail dated January 28, 1999, this proviso "is not consistent with OMB policy or the BEA scorekeeping rules." The Budget Enforcement Act (BEA) was enacted to require OMB and CBO to score legislation according to rules agreed to by Congressional and Executive Branch leadership. Permitting exceptions to scoring legislation would undermine efforts over a number of years to restrain spending that have led to the current budget surplus.

Section 215 (page 16 of the draft bill) is designed to "make clear that ignorance of the law is no excuse for otherwise criminal conduct." (Section-by-section analysis, page 7) I suggest changing it from "Knowledge by the person ..." to "Knowledge (or the lack of knowledge) by the person ..." I believe this change would help achieve the intent of the section.

Section 504 is titled "FEES FOR AIR TRAFFIC SERVICE." It enacts Subchapter II and section 45331, each of which is entitled "Air traffic service fees." Is there a reason to have the differing titles?

On page 2 of the section-by-section analysis, in the third line of the paragraph describing section 202, the word "Actis" appears. I believe it should be "Act's." A similar situation appears on page 5, on line four of the fourth full paragraph, which refers to the Comptroller General's test. Also, on the fifth line of the first full paragraph on page 4, there is a cross before 44701. Does it have any meaning? (Perhaps these items got into the test via the internet.)

On page 2 of the section-by-section analysis, the second line of the paragraph describing section 203, reference is made to "H.R. REP. ..." House reports are normally referred to as H. Report ... Nevertheless, it seems a little strange to be making a reference to such a conference report rather than to the enacted legislation.

On page 5 of the section-by-section analysis, the fifth line of the paragraph describing section 211, refers to "a line of Comptroller General decisions ..." It might be less colloquial to refer to "a series of Comptroller General decisions ..." Why is Comptroller General italicized?

There are two references to "sub-receipt account." (the description of section 504 on page 15 and of section 505 on page 16. The correct term, if it must be used at all, is "receipt subaccount." The description of section 504 (second paragraph) indicates that the new user fees and necessary excise taxes will be held in a receipt subaccount in the Airport and Airway Trust fund. This is not what the draft bill says. We suggest that the entire paragraph be rewritten to reflect what is in the draft bill. The establishment of receipt subaccounts is an administrative procedure that will occur after the legislation is enacted. It should not be mentioned in the section-by-section analysis.

There follows a comment from Winnie Chang regarding section 302, which would enact section 471359(e).

From: Winifred Y. Chang on 04/17/98 05:22:17 PM
Record Type: JAB422Record

To: James A. Brown/OMB/EOP@EOP
cc: See the distribution list at the bottom of this message
Subject: LRM JAB422 - Draft Bill on FAA

This is in response to LRM JAB422 (Draft Bill on FAA Authorization of 1998). More specifically, Title III (Airport Improvement Program Amendment), Section 302 (Innovative Use of Airport Grant Funds) which allows States to use Federal grant funds to make loans and provide credit enhancements to the sponsors of airport development projects.

Usually, loans made from funds which were capitalized by a Federal grant are NOT subject to the Federal Credit Reform Act (FCRA). For example, State Infrastructure Banks (SIBs) were capitalized by a Federal grant and make loans and provide credit enhancements.

However, the proposal stipulates that the "Secretary shall establish procedures and guidelines for making loans under this subsection." If the Secretary of Transportation determines borrower eligibility, underwriting criteria, the terms of the loan, whether prepayments are permitted, approvals for workouts, and the servicing rules for these loans, then this proposal is in fact a Federal direct loan program and is subject to the FCRA. The more control DOT has over the lending with these grants, the more this looks like a DOT program.

As I understand it, in the SIBs program the only stipulation for use of the loans and credit enhancements is the type of highway project. DOT has no control over who gets the loans and how they get them.

I suggest that this part of the proposal be stricken or diluted. For example, "the States shall establish procedures and guidelines, in consultation with the Secretary..." or the "Secretary shall ensure that procedures and guidelines are consistent among States."

FF

From:Winifred Y. Chang on 02/02/99 05:12:12 PM
Record Type:Record

To:Howard Dendurent/OMB/EOP@EOP
cc:james a. brown/omb/eop@eop, sharon a. barkeloo/omb/eop@eop, rosemarie w. dale/omb/eop@eop, pamula l. simms/omb/eop@eop
Subject: Re: LRM ID: JAB12 TRANSPORTATION Draft Bill on Federal Aviation Authorization Act of 1999

Howard didn't send you my preceeding comments.
From:Winifred Y. Chang on 02/02/99 04:11:11 PM
Record Type:Record

To:Howard Dendurent/OMB/EOP@EOP
cc:
Subject:FAA language

The language that you left me looks very similar to a bill that we reviewed earlier (see attached). I think the lanuage just barely escapes FCRA coverage. Nonetheless Section (e)(7) should be clarify that the Secretary is approving applications from the States to establish a loan program, not loan applications.

FF

Record Type:Record

To:Michael L. Goad/OMB/EOP@EOP
cc:Pamula L. Simms/OMB/EOP@EOP
Subject:LRM ID: MLG6 AGRICULTURE Testimony on HR 150 Education Land Grab (oops - Grant) Act

I have no comments on the proposed testimony.

FF LRM ID: MDH16

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

Wednesday, February 3, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO:Legislative Liaison Officer - See Distribution below
FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference
OMB CONTACT: Melinda D. Haskins PHONE:
(202)395-3923 FAX: (202)395-6148
SUBJECT:HHS Draft Bill on Temporary Assistance to Needy Families (TANF) Amendments

DEADLINE:4 P.M. Friday, February 5, 1999

RESPONSE:

FF

LRM ID: MDH15
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Wednesday, February 3, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO:Legislative Liaison Officer - See Distribution below
FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference
OMB CONTACT: Melinda D. Haskins PHONE: (202)395-3923 FAX: (202)395-6148
SUBJECT:REVISED Social Security Administration Draft Bill on SSI Immigrant Benefit Restorations

DEADLINE:3 PM Friday, February 5, 1999

RESPONSE:

FF

E. Holly Fitter 02/03/99 02:09:40 PM
Addendum:
To:Robert G. Damus/OMB/EOP@EOP, Harry E. Moran/OMB/EOP@EOP, Pamula L. Simms/OMB/EOP@EOP,
Alicia K. Kolaian/OMB/EOP@EOP
cc:

Subject: Revised FIFRA Registration Fee language.

This is a revised version of the language included in LRM EHF 4. Please review and provide comments by 10:00 AM Tuesday 2/9/99. I especially need your guidance on which approach you prefer for the paygo boilerplate language. -- (1) the melded language on the hard copy version that went out yesterday, or (2) two discrete and repetitive paragraphs as in the following. Thanks.

RESPONSE:

FF LRM ID: MDH7
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Wednesday, February 3, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference
OMB CONTACT: Melinda D. Haskins PHONE:
(202)395-3923 FAX: (202)395-6148

SUBJECT: HHS Draft Bill on Child Care

DEADLINE: 10 A.M. Monday, February 8, 1999

RESPONSE:

FF
LRM ID: MDH9
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Wednesday, February 3, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below
FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference
OMB CONTACT: Melinda D. Haskins PHONE:
(202)395-3923 FAX: (202)395-6148

SUBJECT: HHS Draft Bill on Independent Living (Supporting Children in Foster Care)

DEADLINE: 11 A.M. Monday, February 8, 1999

RESPONSE:

FF

Record Type: HOWARD DENDURENT 2/5/99 Record

To: Anna M. Briatico/OMB/EOP@EOP, Michael F. Crowley/OMB/EOP@EOP
cc: Pamula L. Simms/OMB/EOP@EOP, Mary C. Barth/OMB/EOP@EOP
Subject: LRM ID: AMB2 TREASURY Draft Bill on Puerto Rico and Virgin Islands Rum Tax Collections

I have no objection to the draft legislation and transmittal letter. I do have a few questions;

The draft bill (section b(1) reads "For the 5-year period beginning after September 30, 1998, ..." Should this date be 1999? That would conform with the handwritten change that the legislation would apply through 2004.

The draft letter indicates a PAYGO effect of \$46 million in outlays in FY 2000. Page 832 of the Appendix indicates \$34 million. Is there another piece somewhere?

The draft legislation and the Appendix do not include a hyphen between "cover over" and "covered over." The draft letter and explanation do. Which is correct?

FF

FROM: E. HOLLY FITTER 2/5/99
Re: Heads-up pn HR 45

To: Alicia K. Kolaian/OMB/EOP@EOP, Pamula L. Simms/OMB/EOP@EOP, Gail S. Zimmerman/OMB/EOP@EOP, Jennifer E. Brown/OMB/EOP@EOP
cc:
Subject: HR 45 - Yucca Mountain

Next Wednesday the House Commerce subcommittee on Energy and Power will be holding a hearing on HR 45, Nuclear Waste Policy Act of 1999. Energy, Justice, NRC, and EPA are testifying and I will send you the paper for review as soon as it is received.

In anticipation of the hearing, please run the bill off of Thomas and look at Section IV - Funding and Organization, which includes provisions on nuclear waste offsetting collection, nuclear waste mandatory fee and one-time additional fee. Last year's House bill was "big" paygo. Does this year's bill have the same bounce?

FF

Record Type: FROM WALTER GROSZYK 2/5/99 Record

To: Robert J. Pellicci/OMB/EOP@EOP
cc: See the distribution list at the bottom of this message
Subject: Re: HHS Testimony on the Department's FY 2000 Budget

Nothing like having John Koskinen make the points for you. Anyway, I have no problems with the GPRA paragraph at the end, and assume it is factual in its representations.

I will note that I do not recall seeing, in the annual plan version that I had, performance measures for some of the featured initiatives in the Secretary's testimony; e.g., national criminal abuse registry (under nursing home quality), suppression of TB, children's hospitals physician training, homeless transition, etc.. From her testimony, I could construct measures, even if only outputs, from some of these projected accomplishments. I would hope that HHS has picked up on these in the annual plan they sent to Congress.

Message Copied To: _____

thomas reilly/omb/eop@eop
ann kendrall/omb/eop@eop
jack a. smalligan/omb/eop@eop
michele ahern/omb/eop@eop
Diana Leland/OMB/EOP@EOP
Janet R. Forsgren/OMB/EOP@EOP
James J. Jukes/OMB/EOP@EOP
John A. Koskinen/WHO/EOP@EOP

PP

LRM ID: MLG8
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, February 5, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO: Legislative Liaison Officer - See Distribution below

FROM: John D. Burnim (for) Assistant Director for Legislative Reference

OMB CONTACT: Michael L. Goad PHONE:
(202)395-3857 FAX: (202)395-5691

SUBJECT: OMB Statement of Administration Policy on HR169 Packers and Stockyards Act Amendments

DEADLINE: 10:30 AM Monday, February 8, 1999

RESPONSE: FROM HOWARD DENDURENT 2/5/99

To: Michael L. Goad/OMB/EOP@EOP
cc: Pamula L. Simms/OMB/EOP@EOP, Mark A. Weatherly/OMB/EOP@EOP
Subject: LRM ID: MLG8 OMB Statement of Administration Policy on HR 169 Packers and stockyards Act Amendments

The second paragraph of the Statement of Administration Policy sounds very much like we are saying that, if the Congress approves this legislation, the Congress would need to appropriate \$1.5 million. I believe that we ought not to make such a statement in advance of a Presidential decision to ask for the funds. I would suggest the following:

The current estimate of the cost of the pilot program, including the swine program authorized by H.R. 169 ,is \$1.75 million.

RF

LRM ID: CJB5
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, February 5, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO:Legislative Liaison Officer - See Distribution below
FROM: Janet R. Forsgren (for) Assistant Director for Legislative Reference

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

SUBJECT:EDUCATION Draft Bill on District of Columbia College Access Act of 1999

DEADLINE:2:00 p.m. Monday, February 8, 1999

RESPONSE: NO COMMENT - by Jennifer on 2/8/99

RF LRM ID: LSS23
EXECUTIVE OFFICE OF THE PRESIDENT
OFFICE OF MANAGEMENT AND BUDGET
Washington, D.C. 20503-0001

Friday, February 5, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO:Legislative Liaison Officer - See Distribution below
FROM: Richard E. Green (for) Assistant Director for Legislative Reference
OMB CONTACT:Leticia Sierra
PHONE: (202)395-3589 FAX: (202)395-3109
SUBJECT: Statement of Administration Policy on HR439 Paperwork Elimination Act of 1999

DEADLINE:10:00am Monday, February 8, 1999

Note sent by: Peter N. Weiss:

Re: Statement of Administration Policy on HR439 Paperwork Elimination Act of 1999
This looks fine. Good job Leticia and Jeff!

Elizabeth: It might be wise to check with Cong. Eshoo's office to see if she is aware of this bill and what her position is. Given past relationships, I consider it likely that

she would give great deference to an Administration position based largely on her own bill which was enacted just last October. I can tell you that her staff is already aware that OMB is working diligently on the guidance.

RESPONSE BY SHELLY: BCB HAS NO OBJECTION ON 2/5/99

FF From: Constance Bowers - 2/8/99 -ESEA
To: See the distribution list at the bottom of this message
cc: Janet R. Forsgren/OMB/EOP@EOP, Elena Kagan/OPD/EOP@EOP, Jonathan H. Schnur/OPD/EOP@EOP
Subject: Reminder: ED's Testimony on ESEA

Below is a file containing the text of Sec. Riley's testimony on ESEA for tomorrow. (A paper copy was provided to you Friday.) Please give me any comments by 1:00 p.m., today. Thanks.

RESPONSE: SHELLY 2/8/99
To: Constance J. Bowers/OMB/EOP@EOP
cc: Pamula L. Simms/OMB/EOP@EOP
Subject: Re: Reminder: ED's Testimony on ESEA

Budget Concepts has no comment on this item.

thanks, Shelly

FF FROM: BARRY WHITE 2/8/99
Record Type: CJB3Record

To: Constance J. Bowers/OMB/EOP@EOP
cc: See the distribution list at the bottom of this message
Subject: Re: TREASURY OBJECTIONS Re: LRM CJB 3 == HHS Draft Bill: ED Dept. Access to NDNH Database --comments

They are certainly entitled to be grumpy about being left out (though I don't recall them wanting to be added in), but that has nothing to do with the need to get this legislation done, consistent with the budget position not to have a generic bill but rather one only for student loan debt collection. I don't see anything here that affects the bill or merits response (except a polite thank you, of course), except to the extent others believe there are technical points needing consideration within the confines of the policy structure we must live with.

FROM: TOM STACK
To: Barry White/OMB/EOP@EOP REF: CJB3 2/9/98
cc: See the distribution list at the bottom of this message
Subject: Re: TREASURY OBJECTIONS Re: LRM CJB 3 == HHS Draft Bill: ED Dept. Access to NDNH Database --comments

The issue at hand is: Should Treasury have access to NDNH for collection of delinquent student loans?

The proposed bill language gives Education's delivery partners, e.g. contractors and guarantee agencies use of the NDNH when collecting delinquent student debt for the

Secretary of Education. When Treasury is collecting delinquent student loans, why would we not also allow Treasury debt collectors the use of the data?

FF From Jennifer Brown 2/9/99 Ref: LRM ON HR45
To: E. Holly Fitter/OMB/EOP@EOP
cc: Pamula L. Simms/OMB/EOP@EOP, Alicia K. Kolaian/OMB/EOP@EOP
Subject: Response to LRM on HR 45 "To amend the Nuclear Waste Policy Act of 1982"

Holly,

I, too, will defer to Alicia.

From: Jason Orlando 2/5/99
To: E. Holly Fitter/OMB/EOP@EOP
cc: Alicia K. Kolaian/OMB/EOP@EOP, Gail S. Zimmerman/OMB/EOP@EOP, Jennifer E. Brown/OMB/EOP@EOP
Subject: Response to LRM on HR 45 "To amend the Nuclear Waste Policy Act of 1982"

Holly -

Here's what it looks like to me, although I will defer to Alicia (when she returns on Tuesday) as she has likely dealt with similar legislation last year. It is clear that HR 45 as drafted is PAYGO. Sec. 401 establishes various fees regarding nuclear waste. The net effect of these fees appears to be a PAYGO savings, as the spending of the collections is dependent upon appropriations.

As far as the amount of the collections, I defer to the examiner.

Jason

FF
MAINFRAME NO. 99104
Constance Bowers: 02/23/99 01:39:38 PM
Record Type: Record

To: See the distribution list at the bottom of this message
cc:
Subject: LRM CJB 8 = REVISED Statement of Administration Policy on S280 To Provide for Education Flexibility Partnerships

Please provide comments on this revised draft SAP on S. 280 by:
4:00 p.m. today, Tuesday, February 23, 1999
(Senate consideration of S. 280 could begin tomorrow)

The text of the revised SAP follows. A text file is also included below. Please note that reviewers should select from the two options containing language on accountability.

DRAFT
February 23, 1999
12:45 PM

STATEMENT OF ADMINISTRATION POLICY

S. 280 - EDUCATION FLEXIBILITY PARTNERSHIP ACT OF 1999

(Sponsors: Frist (R), Tenn. and 33 others)

The Administration supports Senate passage of S. 280, which would expand the "Ed-Flex" demonstration authority to permit all States to waive certain statutory and regulatory requirements of Federal education

[OPTION #1] programs, but urges that the accountability provisions of the bill be strengthened, to ensure that children's educational achievement is enhanced by State waivers of Federal requirements.

[OPTION #2] programs. The Administration is pleased that the pending manager's substitute will strengthen the accountability provisions of the bill, which will ensure that children's educational achievement is enhanced by State waivers of Federal requirements.

S. 280 is [generally] consistent with the President's call for expansion of Ed-Flex in a manner that will promote high standards and accountability for results, coupled with increased flexibility for States and local school districts to achieve those results.

The Administration supports a pending amendment to S. 280 that would implement the President's proposal for a long-term extension of the 1-year authority to help school districts reduce class size in the early grades, which the Congress approved last year on a bipartisan basis. In order to hire qualified teachers, arrange for additional classrooms, and take other steps that are necessary to reduce class size, school districts need to know, as soon as possible, that the Congress intends to support this initiative for more than one year.

MAINFRAME # 99104

LRM ID: CJB8

EXECUTIVE OFFICE OF THE PRESIDENT

OFFICE OF MANAGEMENT AND BUDGET

Washington, D.C. 20503-0001

Tuesday, February 23, 1999

LEGISLATIVE REFERRAL MEMORANDUM

TO:Legislative Liaison Officer - See Distribution below

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

OMB CONTACT:Constance J. Bowers

PHONE: (202)395-3803 FAX: (202)395-6148

SUBJECT:REVISED Statement of Administration Policy on S280 To Provide for Education Flexibility Partnerships

DEADLINE:4:00 p.m. today Tuesday, February 23, 1999

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

COMMENTS:

DRAFT
February 23, 1999
12:45 PM

STATEMENT OF ADMINISTRATION POLICY

S. 280 EDUCATION FLEXIBILITY PARTNERSHIP ACT OF 1999

(Sponsors: Frist (R), Tenn. and 33 others)

The Administration supports Senate passage of S. 280, which would expand the "Ed-Flex" demonstration authority to permit all States to waive certain statutory and regulatory requirements of Federal education

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The Administration supports a pending amendment to S. 280 that would implement the President's proposal for a long-term extension of the 1-year authority to help school districts reduce class size in the early grades, which the Congress approved last year on a bipartisan basis. In order to hire qualified teachers, arrange for additional classrooms, and take other steps that are necessary to reduce class size, school districts need to know, as soon as possible, that the Congress intends to support this initiative for more than one year.

RESPONSE: NO OBJECTION -- HOWARD DENDURENT 2/23/99

FF

June 4, 1998

RECOMMENDED TELEPHONE CALL FOR ERSKINE BOWLES

TO:Senators listed below.

DATE:Call should be made as soon as possible

RECOMMENDED BY:Larry Stein
Bruce Reed
Elena Kagan

PURPOSE:We are asking that you call the following Members to urge them to vote against the Gramm-Domenici tax cut amendment:

Senator Christopher Bond (R-MO): 224-5721
Senator Slade Gorton (R-WA): 224-3441
Senator Connie Mack (R-FL): 224-5274
Senator Gordon Smith (R-OR): 224-3753
Senator John Warner (R-VA): 224-2023

TALKING POINTS:Attached.

DATE OF SUBMISSION:June 4, 1998

ACTION:

*

August 10, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: GENE SPERLING
BRUCE REED
CHRIS JENNINGS

SUBJECT: LONG-TERM CARE INITIATIVE IN A MODIFIED TAX CUT PACKAGE

cc. THE VICE PRESIDENT, ERSKINE BOWLES, ROBERT RUBIN, JACK LEW, SYVIA MATTHEWS, JANET YELLEN, MARIA ECHAVESTE, JOHN PODESTA, RON KLAIN, LARRY STEIN, RAHM EMANUEL, PAUL BEGALA, ELENA KAGAN

Per your request, an interagency NEC/DPC process examined long-term care policy options, specifically how long-term care options could be added to our tax cut package. This memo summarizes our recommendations on both the best policy and the advisability of announcing such an initiative in August or September.

We developed a long-term care initiative that both assists people who provide or pay for long-term care and encourages workers to purchase high-quality, private long-term care insurance. The centerpiece of the initiative is a broad-based, non-refundable tax credit for people with long-term care needs or for families who house and care for such relatives. The credit could help defray the costs of formal care (e.g., home health care) and informal care (e.g., assisting parents who are bed-ridden). Second, to complement the ongoing work of your Task Force on the Employment of Adults with Disabilities, we could introduce a tax credit of up to \$5,000 for impairment-related work expenses incurred by disabled individuals. Third, we could announce support for offering private long-term care insurance to Federal employees, which would have virtually no costs and bipartisan support. The long-term care tax options cost a total of \$4 billion over 5 years and \$14 billion over 10 years, and would be fully funded by savings from postponing or modifying our budget revenue proposals, plus a few offsets that were in the Senate IRS bill, but that were not included in the final bill, or in your FY 1998 budget.

The timing of an announcement of a long-term care initiative in a modified tax package depends on a number of factors that will be discussed later in the memo.

BACKGROUND

This policy initiative is motivated by an interest to address long-term care and issues facing the chronically ill, particularly the elderly.

Unlike Social Security and Medicare, long-term care is a major baby-boom generation issue that has received little attention. Republicans have begun to raise policy options (e.g., MSAs for long-term care in their Patient Protection Act), but not aggressively. Yet, along with the lack of coverage of prescription drugs, the poor coverage of long-term care represents a major concern for the elderly and their families. Medicare pays for only a

limited amount of long-term care, and private insurance even less -- only 10 percent of home health care and 5 percent of nursing home care. As a result, long-term care costs account for nearly half of all out-of-pocket health expenditures for Medicare beneficiaries.

Concern about long-term care costs is not limited to the elderly and people with disabilities. Their children, other relatives and friends provide a large amount of formal and informal long-term care. According to an HHS study that has not yet been released, one in three Americans voluntarily provide some unpaid informal care to an ill or disabled family member or friend. Over 90 percent of people with three or more limitations in activities of daily living (ADLs) living in the community receive some kind of informal care, most often from a spouse or relative. This means that middle-class families may find themselves caring both for their parents and their children.

A second motivation for this initiative is to make our targeted tax cut package include a more progressive, senior-focused tax option. Most people with long-term care needs have lower incomes. For example, the poverty rate for the elderly with two or more limitations in ADLs is twice as high as the rate for all elderly.

POLICIES

The proposed long-term care initiative would consist of three policies: two new tax credits plus offering quality private long-term care insurance to Federal workers. Savings to pay for this initiative would come from new offsets and savings from postponing or modifying our existing tax cut proposals.

1. Long-term care tax credit

The centerpiece of the long-term care initiative would be a tax credit for people with long-term care needs or the families who house and care for such relatives. A \$500, non-refundable credit would cost \$3.9 billion over 5 years, \$12.4 billion over 10 years (according to preliminary Treasury estimates) and would help a total of 3.4 million chronically ill individuals (described below). People with long-term care needs are defined as having two or more limitations in ADLs (bathing, dressing, eating, toileting, transferring and incontinence management) lasting for longer than six months or severe cognitive impairment, as certified by a doctor. Virtually all people who meet these criteria need some type of long-term care. The credit would be given on the basis of illness rather than expenses because, otherwise, it would not help people who receive unpaid long-term care. For example, a wife who cares for her husband herself rather than paying someone to do it would not receive a credit if it were based on receipts for long-term care expenses. This approach is also easier to administer than alternatives. About 1.7 million chronically ill individuals would directly get this credit on their own tax returns.

Certain families with "dependents" with long-term care needs could also receive the credit. Under current law, adults can be claimed by tax filers as dependents if they are related, have very low income, and receive at least half of their support from the tax payer (among other criteria). Adult dependents are generally not required to file tax returns themselves. For the purpose of this credit, we would broaden the definition of a "dependent" to include a person who needs long-term care (described above), lives with the family member, and generally does not have any income tax liability. Because by definition they live in the community, dependents are rarely nursing home residents. Simply stated, this allows families (other than spouses) who house and care for relatives needing long-term care to apply for the credit on their behalf. This improves the ability of the

credit to help people who do not have enough income to file tax returns, although it does not help the elderly with no tax liability living alone or outside of their relatives homes. Another 1.7 million families would get the credit in this way.

Over half of the chronically ill individuals benefiting from this credit are elderly, since the need for long-term care increases with age. Preliminary conversations with aging advocates suggest that this tax credit would be well received. However, private long-term care insurers could oppose the credit for fear that it will decrease interest in insurance since people may think that the credit protects them against long-term care costs.

Key Issues

Should the credit be refundable. A large proportion of people with long-term care needs are low-income and do not have tax liability. Refundability could improve the effectiveness of this policy at reaching its target population.

Pro:

*An additional several hundred thousand people would benefit from the credit if it were refundable, and, for those with a low tax liability, they would get the full amount of the credit.

Cons:

*It adds complexity to the policy because it creates a need to exclude certain groups. A large number of non-filers with long-term care needs are already receiving assistance through SSI and Medicaid if in a nursing home. Because a refundable credit would count against their eligibility for these programs, it makes sense to exclude them from the credit. However, this would be difficult, administratively and politically.

*It could jeopardize the initiative. Although we have been successful in our support for the refundability of the E.I.T.C. despite the strong Republican opposition, adding another refundable credit could risk the passage of the initiative and potentially undermine support for existing refundable credits as well.

*This proposal, as a refundable credit, may not be administrable at acceptable levels of compliance and intrusiveness.

Should we give a larger credit to few people or a smaller credit to more people. If we make the definition of needing long-term care more strict (i.e., three or more ADL limitations as opposed to two), fewer people would be eligible but we could increase the credit amount within the budget constraints.

Pros:

*Raising the credit amount to \$1,000 would make the amount more meaningful. For example, it is enough to purchase a few hours of respite care per week.

*Eligibility based on two or more limitations in ADLs could be more subject to fraud, since it is a less strict standard.

Con:

*Even with \$500 credit and the broader definition of needing long-term care, the policy helps a subset of the people who need long-term care or their families. According to one estimate, about 50 million Americans provide some type of informal long-term care to family and friends.

*Because most people meeting the stricter definition (three plus limitations in ADLs) are ill enough to require institutionalization, even a \$1,000 may be perceived as being too small relative to the larger costs incurred by these people and their family.

2. Tax credit for impairment-related work expenses for people with disabilities
To complement the work of the Task Force on Employment of Adults with Disabilities, people with disabilities could receive a new tax credit of up to \$5,000 for their impairment-related work expenses. This credit could be used to offset expenses for personal care in the workplace, for example, which is often a pre-condition for leaving home for work. A similar credit was in the Health Security Act and a Republican "return-to-work" proposal this year. It costs about \$500 million over 5 years, \$1.2 billion over 10 years, and helps about 300,000.

Key Issue

Should this credit remain as part of the long-term care initiative or be saved for a separate announcement. Although this credit can be considered a long-term care policy, it also fits in the context of return-to-work policies for people with disabilities and could be announced by itself or in the State of the Union.

Pro:

*Omission of a policy for people with disabilities within a long-term care initiative would be noticed. There is a heightened attention to disability issues both in Congress and the community, and especially close attention is being paid to Administration actions. Even the aging advocates support including people with disabilities to avoid this criticism.

Cons:

*The disability community seems happy with the Administrations work on the Jeffords-Kennedy legislation, so that an additional policy at this point may not be needed.

*Since we do not exclude people under age 65 from the long-term care tax credit, we would be helping people with more severe disabilities even if we dropped this specific credit. The overlap between the two credits, however, may be low.

3. Offering private long-term care insurance to Federal workers
The third piece of the initiative is the small but symbolic non-tax option to offer Federal employees and annuitants a range of high-quality private long-term care insurance policies. There would be no Federal contribution for this coverage, but Office of Personnel Management (OPM) would set standards for the plans and sort them into benefit classes (e.g., "core" policy plus several types of "enhanced" policies) to facilitate informed choice. A seriously flawed bill to allow a open-ended long-term care insurance option was introduced by Representative Mica (R-FL) last week. Democratic members of the Civil Service Subcommittee, plus some Republicans (e.g., Connie Morrella), have expressed interest in a substitute. Proposing an alternative would add to our series of policies for Federal workers that demonstrates our leadership as a responsible employer.

Key Issues. None on policy grounds, and your advisors recommend that we act on this to preempt the Republicans from claiming the policy. However, it does not necessarily need to be included in an otherwise tax-oriented package.

4. Offsets

This long-term care initiative would cost about \$4 billion over 5 years and \$14 billion over 10 years. It could be offset by modifying our existing tax package and adding a few new policies. First, we would postpone the effective date of our proposed tax initiatives until January 1, 2000. Given the Year 2000 problem, we would probably have to do so regardless. Second, we would scale back the child and dependent care credit (make it a 40 percent credit as opposed to 50 percent and slow the phase-down). Third, we would add two new policies that were in the Senate IRS package, but weren't included in the final bill and that were in your FY 1998 budget. The first is to modify the Foreign Tax Credit carryover rules; the second is to reform the treatment of Foreign Oil and Gas Income and dual capacity taxpayers.

Key Issues. None on policy grounds, although like any offsets, they are not universally liked.

Recommendations. Your advisors generally agree on all of the components of this long-term care initiative. On the issue of refundability of the long-term care tax credit, we recommend against it. In particular, NEC, Treasury and Legislative Affairs fear that making the credit refundable could spur an overall attack against refundability and jeopardize the gains that we have made on the E.I.T.C. It does, however, leave us somewhat vulnerable to criticisms that it is regressive. We suggest responding to this concern by stating that we are willing to work with a bipartisan Congress to make this credit more progressive. There is also agreement choose a broader definition of eligibility (two plus limitations in ADLs) even though we would have to lower the credit to make it affordable. This could help broaden the base of support for the initiative. Finally, even though the credit for people with disabilities could be part of the long-term care package, we recommend making it a separate announcement. NEC/DPC think that this credit might be best announced in the State of the Union, since it is likely to be recommended by the Task Forces November report and such an announcement would be viewed as acting on that recommendation.

Long-term care tax credit:

Include refundable credit

Include non-refundable credit (RECOMMENDED)

Do not include in the package

Tax credit for impairment-related expenses for people with disabilities:

Include tax credit for people with disabilities

Do not include in the package (RECOMMENDED)

Offering private long-term care insurance to Federal employees:

Include in package (RECOMMENDED)

Do not include in the package

Discuss some or all options further

ISSUES RELATED TO THE TIMING OF AN ANNOUNCEMENT

Assuming that the long-term care initiative and modified tax cut package are acceptable on policy grounds, the next question is about timing of an announcement. The following

outlines the pros and cons of announcing this initiative in August or early September.

Pros:

*Secures ownership of the long-term care issue. A strong, affirmative long-term care message would not only be popular amongst the elderly, people with disabilities and most advocacy groups, but it would probably be well received by validators who think that this is the great, untouched baby-boom issue. This could complement and affirm your leadership on major, societal issues facing the country in the next century.

*Provides an alternative to private long-term care insurance and MSAs as the only solution to the problem. In September, the Republicans will probably take up the Mica Federal employees private long-term care insurance proposal and the Senate Patient Bill of Rights legislation that expands MSAs to include long-term care expenses. The mainstream advocates are concerned about the singular focus on private long-term care insurance and MSAs, since they will not come close to covering the costs of long-term care. Even the insurance industry, in its most optimistic projections, does not foresee that private insurance will cover even half of long-term care costs in thirty years. However, in the absence of alternatives, some may feel some pressure to support the Republicans proposals.

*Confirms our support for responsible tax cuts. Presenting a tax cut package with explicit offsets would reaffirm that we support tax cuts, so long as they are paid for. As such, it could complement our Save Social Security First message. These credits also are attractive alternatives to some of the Republican proposals, since they focus on the elderly and people with disabilities who have lower income.

Cons:

*Could provide impetus for an unacceptable tax cut this year. The proposal would come at a time when Congressional Democrats, especially in the House, see the Social Security First message as strong and simple. They would probably perceive a new tax package as clouding that message. Also, Gingrich has been musing about settling for a tax cut this year of \$70 billion or even less, so that our announcement of a revised tax package of about \$30 billion could be read as a sign that we are willing to deal with the Republicans on their tax package in September and make our rule of not using the surplus less clear as well. Finally, given that our revenue raising provisions are unpopular on the Hill, an announcement with an attractive set of options could increase the chances of a tax cut that taps the surplus.

*Democrats may prefer marriage penalty regardless. The new package could have somewhat limited value for Congressional Democrats because it does not include marriage penalty relief, which is their main concern.

*May appear political and not receive the attention and validation that it deserves. Since it is unusual to propose policies with budget implications outside of the State of the Union and Budget process, the timing of the announcement, rather than the substance of it, may be what the press focuses on.

Recommendations. Your advisors generally do not recommend an August or early September announcement. The importance of this initiative to your overall policy agenda would probably be obscured by a media focused on the timing. Moreover, Republicans could seize

on the announcement to generate momentum in September for their tax package or one that uses the surplus. It appears, at this point, that Democrats think that inaction on the tax front is a good outcome for them.

However, we think that the question of timing should be revisited in mid-September. At that point, we will have a better sense of the potential ramifications of the announcement for Congress. We can also assess when and how we can make this announcement so it clearly gets the attention it deserves and puts you in a leadership role on this important issue.

Announce in August or early September

Revisit timing decision in mid-September (RECOMMENDED)

Discuss further

*

August 11, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: GENE SPERLING
BRUCE REED
CHRIS JENNINGS

SUBJECT: LONG-TERM CARE INITIATIVE

cc. THE VICE PRESIDENT, ERSKINE BOWLES, ROBERT RUBIN, JACK LEW, SYLVIA MATTHEWS, JANET YELLEN, MARIA ECHAVESTE, JOHN PODESTA, RON KLAIN, LARRY STEIN, RAHM EMANUEL, PAUL BEGALA, ELENA KAGAN

Per your request, an interagency NEC/DPC process examined long-term care policy options, specifically how long-term care options could be added to our tax cut package. This memo summarizes our recommendations on both the best policy and the advisability of announcing such an initiative in August or September or waiting until the State of the Union.

We developed a long-term care initiative that both assists people who provide or pay for long-term care and encourages workers to purchase high-quality, private long-term care insurance. The centerpiece of the initiative is a broad-based, non-refundable tax credit for people with long-term care needs or for families who house and care for such relatives. The credit could help defray the costs of formal care (e.g., home health care) and informal care (e.g., assisting parents who are bed-ridden). Second, to complement the ongoing work of your Task Force on the Employment of Adults with Disabilities, we could introduce a tax credit of up to \$5,000 for impairment-related work expenses incurred by disabled individuals. Third, we could announce support for offering private long-term care insurance to Federal employees, which would have virtually no costs and bipartisan support. The long-term care tax options cost a total of \$4 billion over 5 years and \$14 billion over 10 years, and would be fully funded by savings from postponing or modifying our budget revenue proposals, plus a few offsets that were in the Senate IRS bill, but that were not included in the final bill, or in your FY 1998 budget.

The timing of an announcement of a long-term care initiative in a modified tax package depends on a number of factors that will be discussed later in the memo.

BACKGROUND

This policy initiative is motivated by an interest to address long-term care and issues facing the chronically ill, particularly the elderly.

Unlike Social Security and Medicare, long-term care has received little attention. Republicans have begun to raise policy options (e.g., MSAs for long-term care in their Patient Protection Act), but not aggressively. Along with the lack of coverage of prescription drugs, the poor coverage of long-term care represents a major concern for the elderly and their families. Medicare pays for only a limited amount of long-term care, and

private insurance even less -- only 10 percent of home health care and 5 percent of nursing home care. As a result, long-term care costs account for nearly half of all out-of-pocket health expenditures for Medicare beneficiaries.

Concern about long-term care costs is not limited to the elderly and people with disabilities. Their children, other relatives and friends provide a large amount of formal and informal long-term care. According to an HHS study that has not yet been released, one in three Americans voluntarily provide some unpaid informal care to an ill or disabled family member or friend. Over 90 percent of people with three or more limitations in activities of daily living (ADLs) living in the community receive some kind of informal care, most often from a spouse or relative. This means that middle-class families may find themselves caring both for their parents and their children.

A second motivation for this initiative is to make our targeted tax cut package include a more progressive, senior-focused tax option. Most people with long-term care needs have lower incomes. For example, the poverty rate for the elderly with two or more limitations in ADLs is twice as high as the rate for all elderly.

POLICIES

The proposed long-term care initiative would consist of three policies: two new tax credits plus offering quality private long-term care insurance to federal workers. Savings to pay for this initiative would come from new offsets and savings from postponing or modifying our existing tax cut proposals.

1. Long-term care tax credit

The centerpiece of the long-term care initiative would be a tax credit for people with long-term care needs or the families who house and care for such relatives. A \$500, non-refundable credit would cost \$3.9 billion over 5 years and \$12.4 billion over 10 years (according to preliminary Treasury estimates) and would help a total of 3.4 million chronically ill individuals (described below). People with long-term care needs are defined as having two or more limitations in ADLs (bathing, dressing, eating, toileting, transferring and incontinence management) lasting for longer than six months or severe cognitive impairment, as certified by a doctor. Virtually all people who meet these criteria need some type of long-term care. The credit would be given on the basis of illness rather than expenses because, otherwise, it would not help people who receive unpaid long-term care. For example, a wife who cares for her husband herself rather than paying someone to do it would not receive a credit if it were based on receipts for long-term care expenses. This approach is also easier to administer than alternatives. About 1.7 million chronically ill individuals would directly get this credit on their own tax returns.

Certain families with "dependents" with long-term care needs could also receive the credit. Under current law, adults can be claimed by tax filers as dependents if they are related, have very low income, and receive at least half of their support from the tax payer (among other criteria). Adult dependents are generally not required to file tax returns themselves. For the purpose of this credit, we would broaden the definition of a "dependent" to include a person who needs long-term care (described above), lives with the family member, and generally does not have any income tax liability. Because by definition they live in the community, dependents are rarely nursing home residents. Simply stated, this allows families (other than spouses) who house and care for relatives needing long-term care to apply for the credit on their behalf. This improves the ability of the

credit to help people who do not have enough income to file tax returns, although it does not help the elderly with no tax liability living alone or outside of their relatives homes. Another 1.7 million families would get the credit in this way.

Over half of the chronically ill individuals benefiting from this credit are elderly, since the need for long-term care increases with age. Preliminary conversations with aging advocates suggest that this tax credit would be well received. However, private long-term care insurers could oppose the credit for fear that it will decrease interest in insurance since people may think that the credit protects them against long-term care costs.

Key Issues

Should the credit be refundable? A large proportion of people with long-term care needs are low-income and do not have tax liability. Refundability could improve the effectiveness of this policy at reaching its target population.

Pro:

*An additional several hundred thousand people would benefit from the credit if it were refundable, and, for those with a low tax liability, they would get the full amount of the credit.

Cons:

*It adds complexity to the policy because it creates a need to exclude certain groups. A large number of non-filers with long-term care needs are already receiving assistance through SSI and Medicaid if in a nursing home. Because a refundable credit would count against their eligibility for these programs, it makes sense to exclude them from the credit. However, this would be difficult, administratively and politically.

*It could jeopardize the initiative. Although we have been successful in our support for the refundability of the E.I.T.C. despite the strong Republican opposition, adding another refundable credit could risk the passage of the initiative and potentially undermine support for existing refundable credits as well.

*This proposal, as a refundable credit, may not be administrable at acceptable levels of compliance and intrusiveness.

Should we give a larger credit to few people or a smaller credit to more people? If we make the definition of needing long-term care stricter (i.e., three or more ADL limitations as opposed to two), fewer people would be eligible but we could increase the credit amount within the budget constraints.

Pros:

*Raising the credit amount to \$1,000 would make the amount more meaningful. For example, it is enough to purchase a few hours of respite care per week.

*Eligibility based on two or more limitations in ADLs could be more subject to fraud, since it is a less strict standard.

Con:

*Even with \$500 credit and the broader definition of needing long-term care, the policy helps a subset of the people who need long-term care or their families. According to one estimate, about 50 million Americans provide some type of informal long-term care to family and friends.

*Because most people meeting the stricter definition (three plus limitations in ADLs) are ill enough to require institutionalization, even a \$1,000 may be perceived as being too small relative to the larger costs incurred by these people and their family.

2. Tax credit for impairment-related work expenses for people with disabilities
To complement the work of the Task Force on Employment of Adults with Disabilities, people with disabilities could receive a new tax credit of up to \$5,000 for their impairment-related work expenses. This credit could be used to offset expenses for personal care in the workplace, for example, which is often a pre-condition for leaving home for work. A similar credit was in the Health Security Act and a Republican "return-to-work" proposal this year. It costs about \$500 million over 5 years, \$1.2 billion over 10 years, and helps about 300,000.

Key Issue

Should this credit remain as part of the long-term care initiative or be saved for a separate announcement? Although this credit can be considered a long-term care policy, it also fits in the context of return-to-work policies for people with disabilities and could be announced by itself or in the State of the Union.

Pro:

*Omission of a policy for people with disabilities within a long-term care initiative would be noticed. There is a heightened attention to disability issues both in Congress and the community, and especially close attention is being paid to Administration actions. Even the aging advocates support including people with disabilities to avoid this criticism.

Cons:

*The disability community seems happy with the Administrations work on the Jeffords-Kennedy legislation, so that an additional policy at this point may not be needed.

*Since we do not exclude people under age 65 from the long-term care tax credit, we would be helping people with more severe disabilities even if we dropped this specific credit. The overlap between the two credits, however, may be low.

3. Offering private long-term care insurance to Federal workers

The third piece of the initiative is the small but symbolic non-tax option to offer Federal employees and annuitants a range of high-quality private long-term care insurance policies. There would be no Federal contribution for this coverage, but Office of Personnel Management (OPM) would set standards for the plans and sort them into benefit classes (e.g., "core" policy plus several types of "enhanced" policies) to facilitate informed choice. A seriously flawed bill to allow a open-ended long-term care insurance option was introduced by Representative Mica (R-FL) last week. Democratic members of the Civil Service Subcommittee, plus some Republicans (e.g., Connie Morrella), have expressed interest in a substitute. Proposing an alternative would add to our series of policies for Federal workers that demonstrates our leadership as a responsible employer.

Key Issues. None on policy grounds, although it is not a tax policy like the others. However, your advisors recommend that we act on this as soon as possible to preempt the Republicans from claiming the policy.

4. Offsets

This long-term care initiative would cost about \$4 billion over 5 years and \$14 billion over 10 years. It could be offset by modifying our existing tax package and adding a few new policies. First, we would postpone the effective date of our proposed tax initiatives until January 1, 2000. Given the Year 2000 problem, we would probably have to do so regardless. Second, we would scale back the child and dependent care credit (make it a 40 percent credit as opposed to 50 percent and slow the phase-down). Third, we would add two new policies that were in the Senate IRS package, but weren't included in the final bill and that were in your FY 1998 budget. The first is to modify the Foreign Tax Credit carryover rules; the second is to reform the treatment of Foreign Oil and Gas Income and dual capacity taxpayers.

Key Issues. None on policy grounds, although like any offsets, they are not universally liked.

RECOMMENDATIONS. Your advisors (Chief of Staff, Office of the Vice President, NEC, DPC, CEA, Legislative Affairs, Treasury and OMB) generally agree on all of the components of this long-term care initiative. On the issue of refundability of the long-term care tax credit, we recommend against it. In particular, NEC, DPC Treasury and Legislative Affairs fear that making the credit refundable could spur an overall attack against refundability and jeopardize the gains that we have made on the E.I.T.C. It does, however, leave us somewhat vulnerable to criticisms that it is regressive. We suggest responding to this concern by stating that we are willing to work with Congress to make this credit more progressive. There is also agreement choose a broader definition of eligibility (two plus limitations in ADLs) even though we would have to lower the credit to make it affordable. This could help broaden the base of support for the initiative. Finally, even though the credit for people with disabilities could be part of the long-term care package, we recommend making it a separate announcement. NEC/DPC think that this credit might be best announced in the State of the Union, since it is likely to be recommended by the Task Forces November report and such an announcement would be viewed as acting on that recommendation.

Long-term care tax credit:

Include refundable credit

Include non-refundable credit (RECOMMENDED)

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Discuss some or all options further

ISSUES RELATED TO THE TIMING OF AN ANNOUNCEMENT

Assuming that the long-term care initiative and modified tax cut package are acceptable on policy grounds, the next question is about timing of an announcement. The following

outlines the pros and cons of announcing this initiative in August or early September.

Pros:

*Secures ownership of the long-term care issue. A strong, affirmative long-term care message would not only be popular amongst the elderly, people with disabilities and most advocacy groups, but it would probably be well received by validators who think that this is the great, untouched baby-boom issue. This could complement and affirm your leadership on major, societal issues facing the country in the next century.

*Provides an alternative to private long-term care insurance and MSAs as the only solution to the problem. In September, the Republicans will probably take up the Mica federal employees private long-term care insurance proposal and the Senate Patient Bill of Rights legislation that expands MSAs to include long-term care expenses. The mainstream advocates are concerned about the singular focus on private long-term care insurance and MSAs, since they will not come close to covering the costs of long-term care. Even the insurance industry, in its most optimistic projections, does not foresee that private insurance will cover even half of long-term care costs in thirty years. However, in the absence of alternatives, some may feel some pressure to support the Republicans proposals.

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RECOMMENDATIONS. Your advisors generally do not recommend an August or early September announcement. The importance of this initiative to your overall policy agenda would probably be obscured by a media focused on the timing. Moreover, Republicans could seize

on the announcement to generate momentum in September for their tax package or one that uses the surplus. It appears, at this point, that Democrats think that inaction on the tax front is a good outcome for them.

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Announce in August or early September

Revisit timing decision in mid-September (RECOMMENDED)

Discuss further

Date: _____

MEMORANDUM FOR THE DIRECTOR

FROM: Jim Murr (signed)

SUBJECT: Weekly Activities Report ()

This report addresses selective clearance items. It does not address LR-prepared SAPs and enrolled bill memoranda.

MAJOR CLEARANCES EXPECTED DURING THE WEEK OF

--Testimony

1. Expect to clear Labor testimony for a February 25th S. Judiciary hearing on H-1B visas. The H-1B visa program currently provides 65,000 temporary visas (for six years) for skilled workers (computer engineers, nurses, and other professionals). DPC advises that a Justice/Labor/Commerce/State working group has prepared an options paper for Elena Kagan's review. DPC plans to prepare and submit to the President a decision memo regarding possible reforms to the H-1B visa program.

--"Reports" (Letters)

--Draft Bills

MAJOR CLEARANCES DURING THE PAST WEEK

--Testimony

1.

--"Reports" (Letters)

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--Draft Bills

DRAFT BILLS RECEIVED FOR CLEARANCE DURING PAST WEEK

1.

OTHER

1.A S. Judiciary subcommittee will markup S. 1504 on March 5th. S. 1504 would provide relief from deportation for certain Haitians, similar to the relief provided to certain Central Americans and Eastern Europeans in the "Nicaraguan Adjustment and Central American Relief Act", included in P.L. 105-100. WHLA (Jacoby) advises that a POTUS letter to Sen Graham (sponsor of S. 1504) supporting efforts to provide relief to individuals in situations similar to that of the Central Americans for which relief was provided is being prepared and will be sent to the subcommittee before the markup.

■ DARLENE -

DON'T INCLUDE THIS ENTRY IN THE WEEKLY.

THANKS -

INGRID

H.R. 2603 - Alternative Dispute Resolution (ADR) and Settlement Encouragement Act. Cleared Justice letter proposing an alternative to H.R. 2603, Alternative Dispute Resolution and Settlement Encouragement Act, for a House Judiciary subcommittee. H.R. 2603 would provide a nationwide expansion of the current arbitration demonstration program operating in 20 District Courts. The alternative language would broaden the scope of the bill to include all forms of ADR and would encourage ADR rather than mandate it.

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MAJOR CLEARANCES DURING THE PAST WEEK

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1.H-1B Visa Program. Expect to clear Labor testimony for a February 25th S. Judiciary hearing on H-1B visas. The H-1B visa program currently provides 65,000 temporary visas (for six years) for skilled workers (computer engineers, nurses, and other professionals). DPC advises that a Justice/Labor/Commerce/State working group has prepared an options paper for Elena Kagan's review. DPC plans to prepare and submit to the President a decision memo regarding possible reforms to the H-1B visa program.

-- "Reports" (Letters)

H.R. 2544 - Technology Transfer Commercialization Act. Cleared a Commerce letter to House Technology Subcommittee Chairwoman Morella supporting the goal of her bill, H.R. 2544 and recommending improvements. The bill's goal is to simplify the requirements on Federal laboratories for the licensing of their inventions. The proposed amendments would ensure fairness of access to Federal inventions (e.g., maintaining a requirement for public notice of exclusive licenses) and their commercialization.

Draft Bills

1.National Science Foundation Authorization Act

John F. Kennedy Center for the Performing Arts Authorization Act

DRAFT BILLS RECEIVED FOR CLEARANCE DURING PAST WEEK

OTHER

1.S. 1504 - Haitian Refugee Immigration Fairness Act of 1997. A S. Judiciary subcommittee is scheduled to markup S. 1504 on March 5th. S. 1504 would provide relief from deportation for certain Haitians, similar to the relief provided to certain Central Americans and Eastern Europeans in the "Nicaraguan Adjustment and Central American Relief Act", included in P.L. 105-100. WHLA (Jacoby) advises that a letter is being prepared for the President to send to

Senator Graham (sponsor of S. 1504) supporting efforts to provide relief from deportation to certain Haitians. The letter will be sent to the subcommittee before the markup.

2.Antiterrorism Funding. Cleared OMB-prepared, unclassified version of the report on Government-wide Spending to Combat Terrorism, which the President is required to transmit to the Congress by March 1st. The report is the first of annual reports required by the FY 1998 National Defense Authorization Act. The report summarizes the amounts expended in FY 1998 for antiterrorism (AT)and counter terrorism (CT) activities and the amounts requested for FY 1999 for those activities. The report also contains short examples of how agencies are using these funds for AT/CT activities.

3.Study of Criminal Use of Armor Piercing Ammunition. Expect to clear Treasury's revised report to Congress on the threat to law enforcement officers from the criminal use of armor piercing ammunition. The report was required by the Antiterrorism and Effective Death Penalty Act of 1996.

4.Strategy for Coordination of Capabilities to Combat Terrorism. Received for clearance Justice's proposed outline for the development of a five-year antiterrorism strategy. The FY 1998 Appropriations Act required DOJ to prepare an interdepartmental anti-terrorism plan.

September 18, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: GENE SPERLING

RE: NEC WEEKLY REPORT

CC: ERSKINE BOWLES

Speech at the Council of Foreign Relations: Your speech to the Council on Foreign Relations received terrific press: the USA Today, Washington Post, Financial Times, and New York Times all ran positive stories above-the-fold. Your speech was also extremely well received in the financial markets, both here and abroad, and particularly in Latin America. As you know from your conversations with Presidents Cardoso and Zedillo, the equity markets in Brazil and Mexico were both up in the first half of the week, partially due to renewed confidence in their markets because of your words.

Next Generation Internet: In your State of the Union address, you set a goal of connecting 100 universities to the Next Generation Internet (NGI). On Friday (9/18), the Vice President announced grants to connect another 36 universities to the NGI -- exceeding your goal and bringing the total to 128.

H-1B Visas: The House Republican leadership postponed bringing to the floor legislation to increase the number of temporary (H-1B) visas for highly skilled foreign workers; the current plan is to move the bill next week. The reason for the delay is twofold: (1) the current version, does not include adequate protections for U.S. workers and includes insufficient training funds; and (2) does not appear to have enough votes to pass (partially because of our veto threat). Meanwhile, Cecilia Rouse, on my staff, and Peter Jacoby, of White House Legislative Affairs have been meeting with Senator Abrahams staff to reach an agreement that would include significant additional funding for training and strong protections for U.S. workers. There has been some progress, and it is possible that we can reach an agreement in the next week.

Head Start Reauthorization: On Monday night (9/14), as part of the Community Services reauthorization, the House passed Head Start reauthorizing legislation that is much less problematic than the version reported by the House Education and Workforce Committee. (The bill also included Low-Income Home Energy Assistance Program reauthorization, Community Services Block Grant reauthorization, and a new Individual Development Account demonstration (see below). During the Committee markup, Rep. Riggs succeeded in adding two controversial amendments concerning paternity establishment and vouchers/certificates. However, Rep. Goodling succeeded in bringing a version of the bill to the floor that did not include these two provisions, and omitted the provision in the Committee bill that would have repealed the Davis-Bacon requirement for Head Start construction. Because of these changes, the reauthorization passed with overwhelming bipartisan support (346-20). There remain a few lesser, but still important, Head Start issues for conference: for

example, the House bills excessive increase in the quality set-aside (from the current law 25 percent of any real increase in Head Start funding to 65 percent in FY 1999 and FY 2000 and 45 percent in FY 2001 and FY 2002). Boosting the quality set-aside to these levels would restrict expansion and prevent the Head Start program from reaching your target of 1 million children in 2002. The Senate version (which passed by unanimous consent) does not change the quality set-aside from current law. We will work in conference to ensure that the Senate version is included in the final bill.

Individual Development Accounts: On Monday night (9/14), the House passed the Individual Development Accounts (IDA) proposal, as part of the Community Services reauthorization (see above). Enactment of this legislation would effectively complete your 1992 community empowerment agenda. There are no significant differences between the House-passed and Senate-passed versions of the bill and therefore, we do not expect a contentious conference. The IDA proposal authorizes \$25 million annually and we are seeking an appropriate way to fund the program. The Senate Labor/HHS bill earmarks \$10 million of HHS welfare reform research funds, but we are concerned that this approach could take needed money away from critical welfare reform studies. Therefore, we are working with DPC, OMB, and the Hill to find another way to fund these new IDAs. You should also know that Jon Orszag, on my staff, is working to put together three other announcements to promote the use of IDAs: (1) a letter from banking regulators clarifying that banks and thrifts can receive Community Reinvestment Act credit for IDA programs; (2) a letter from HUD clarifying that HOME and Community Development Block Grant funds can be used to establish IDA programs; and (3) a clarification from Treasury that the matching contribution to the IDA from a non-profit or government entity is not counted as income for the individual.

H-2A Visas: Last July the Senate passed an amendment to the Commerce-State-Justice Appropriations bill (sponsored by Senators Ron Wyden (D-OR), Bob Graham (D-FL) and Gordon Smith (R-OR) that reforms the H-2A agricultural guestworker program. Secretary Herman wrote a letter strongly opposing the amendment because it would erode protections for U.S. workers and shift costs and risks from employers to workers and/or the government. Although the bill passed the Senate by a vote of sixty-eight to thirty-one, it has since lost support among Senate Democrats, principally because labor and Hispanic groups have made clear their vehement opposition. Further, the Wyden-Graham amendment has little Republican or Democratic support in the House. Faced with this situation, Sens. Wyden and Graham met with Erskine Bowles, Sally Katzen, and Elena Kagan on Tuesday (9/15) in an attempt to convince the White House that rather than opposing their bill, we should work with them to make it better. Following that meeting, Elena Kagan, Cecilia Rouse (NEC), Julie Fernandes (DPC), and Barbara Chow (OMB) met twice with the staff of House and Senate Democrats. After giving the Wyden-Graham bill careful consideration, we plan to list this amendment as one of the reasons to issue a veto threat on the C-J-S Appropriations bill. You should know that we have begun a bi-partisan working group (including the Department of Labor and USDA) to consider potential reform to the H-2A program.

HEA Reauthorization: While the conference on the Higher Education Act reauthorization is not finished, it does appear to be in its final stages, and a report could be considered in the House as early as next week. There is much for us to celebrate in the bill: for example, lower interest rates on student loans; authorization of the High Hopes program (renamed "GEAR-UP"); teacher recruitment and training proposals modeled in part on your initiatives; the government's first Performance-Based Organization (PBO), for the efficient delivery of student aid; making distance learning more available, and investing in innovative distance learning pilot projects. We did, of course, have losses, too. The

bill includes unnecessary subsidies to banks, and the lack of any pilot program to use market forces to set lender subsidies. For former students paying higher interest rates on their loans, low-rate financing through direct lending will end in just four months. (On the welfare reform provisions, we have not heard yet of any resolution).

Chief Operating Officer for Student Aid: In preparation for the new Performance-Based Organization (see above), the Education Department is prepared to hire Suzanne Peck, the first Chief Operating Officer for student aid. She has a background in student loan banking -- the type of industry experience that many feel will help bring innovation to our grant and loan programs.

Tax Cuts and Saving Social Security First: Following your strong veto statement on any tax bill that violates Saving Social Security first, Democrats on the Ways and Means Committee held together. While several Democrats wavered all week, only Barbara Kennelly voted for the Archer package. Erskine, Bob Rubin, Jack Lew, and I met with a group of reporters to reinforce our position that you will veto any tax cut that squanders the surplus. We will continue to work to convince Democrats that our position is unwavering.

School Construction: You should know that the Ways & Means tax bill includes a provision worth \$1.3 billion over five years that allows increased arbitrage on school construction bonds. While the provision is objectionable, it does indicate that Republicans feel that they need to respond to our call for an investment in school construction. On the Senate side, Sen. Moseley-Braun yesterday released a letter from 40 Senators to the Majority Leader and the Chairman of the Finance Committee urging that any tax relief legislation "should include major tax relief for communities seeking to rebuild and modernize their school facilities." The letter states that "We believe this objective can be accomplished in a manner that does not reduce the projected budget surplus."

Bankruptcy: The Senate began floor debate on the bankruptcy bill on Thursday (9/17). Among major amendments, Senator DAmatos amendment to ban ATM fees charged by the machine provider (as opposed to the customers bank) failed 72-26. Senator Kennedys minimum wage amendment was put off until next Tuesday (9/22), when final passage of the underlying bill is expected. The Administrations SAP "encourages Senate passage of S. 1301 as an important step toward balanced bankruptcy reform; however, the Administration ultimately would support enactment of bankruptcy legislation only if the essential reforms incorporated by the Senate managers' amendment are preserved and strengthened and the unbalanced and arbitrary elements of the current House bill are omitted." I convened a meeting of White House senior staff and DoJ and Treasury officials to reach a consensus on our conference goals.

Y2K Information Sharing Liability Bill: Senators Hatch, Leahy, Kyl and Dodd, joined by John Koskinen, held a press conference Wednesday (9/16) to announce a bipartisan consensus on language for the "Good Samaritan" bill that you proposed in mid-July. The Senators credited the Administrations pivotal role in the development of the legislation. At mark-up on Thursday (9/17), Senator Thompson offered an amendment that would have cost the bill key industry support. It was defeated 14-4, since any one Senator can derail the bill at this late date, the Administration and the Senate sponsors have begun to educate the four Senators who were in favor of the amendment. So far, we have won over one of the four. Senator Hatch hopes to bring the bill to the floor next week.

Auto Choice: Next week, the Senate may bring auto insurance reform legislation, so-called Auto Choice, to the floor for a cloture vote. As you may know, under the Auto Choice proposal, drivers in states that accept the new federal legislation would have a choice

between the existing system in their state and a no-fault plan -- which may provide lower premiums, but at the cost of prohibiting most drivers from collecting non-economic damages such as pain and suffering. Your economic team has a number of serious problems with the legislation, but believes that the best strategy is to remain silent at this time because: (1) the motion is unlikely to pass, and (2) we do not want to divide Democrats -- Senators Monyihan and Lieberman favor the legislation and most others are opposed. You should know that if the cloture vote passes, we will send you a memo to inform your decision about opposing/supporting Auto Choice.

Social Security Reform: This week, the Social Security working group met to review extensive work we have done analyzing the impact of Social Security reform on women. We discussed (1) issues about the current Social Security system -- including why so many elderly widows are poor and whether the system is fair to working women -- and (2) ways in which reform proposals would impact women (e.g., the implications of annuitizing individual accounts at a unisex rate, the evidence on whether women are more conservative investors than men, and options for reducing widow poverty). Larry Stein and I continued our meetings with key Senators to get their thoughts on how the Social Security reform process should unfold in the coming months; this week, we had individual meetings with Senators Breaux, Conrad, Dorgan, Kennedy, and Mack, and a joint meeting with Kerrey and Moynihan.

Minimum Wage: The Senate was supposed to debate and vote on Senator Kennedys minimum wage increase on Thursday (9/17), but they delayed it until next Tuesday (9/22) when the Senate will take it up. Senate Democrats were pleased with your remarks about the minimum wage at the IBEW Conference. We expect the vote to be very close. There are 45 definite supporters of your proposal, including two Republicans (DAmato and Specter). And 9 Senators -- 7 Republicans and 2 Democrats -- remain uncommitted. We will be working with the Labor Department and Senator Kennedys office to get the votes needed to pass your proposal.

Internet Tax Freedom Act: There is a chance that the Senate next week will approve the Internet Tax Freedom Act. Senator Wyden (a sponsor) and Senator Dorgan (an opponent) are trying to agree on a compromise that would allow the bill to be brought up on a time agreement. We have been actively encouraging Senate Democrats to reach a compromise to allow the bill to go forward.

MEMORANDUM FOR ERSKINE BOWLES

THROUGH: Franklin D. Raines

FROM: Sally Katzen

SUBJECT: Heads-up on DOLs Welfare-to-Work Interim Final Rule

We have just concluded review of a DOL interim final rule implementing the Welfare-to-Work legislation that will provide \$3 billion in formula grants (to States and Indian tribes) and competitive grants (to public and private entities). The purpose of the legislation is to provide transitional employment assistance that moves hard-to-employ welfare recipients into unsubsidized, long-term jobs.

Local governments have pushed hard for the flexibility to determine which individuals are eligible for benefits and what types of employment activities are covered under the program. States, however, want to maintain this authority at their level. We (OMB/DPC) believe that this rule strikes an appropriate balance between providing localities sufficient flexibility while preserving the States primary role in overseeing and implementing welfare reform.

Neither the States nor local governments will be satisfied with the outcome of the rule. Disability groups, who believe that the rule fails to adequately address the needs of disabled individuals, are also expected to react unfavorably.

The rule will be unveiled at a White House event on welfare reform (that hopefully will also include the major HHS regulations implementing the welfare reform act) scheduled for November 17th. Please let me know if you have any questions.

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

Executive Office of the President
Office of Management & Budget

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To:

Bruce Reed, Elena Kagan

Fax:

6-2878

Pages (inc cvr):

4

From:

Joshua Gotbaum

Executive Associate Director

OEOB Room 254

Washington, DC 20503

June 1, 1998 ,

(202) 395-9188 Fax (202) 395-3995

Re:

Who shot JR, and vice versa?

Yes, the Administration submitted text providing that the state restricted use menu would be funded under section 402(a). However, when we submitted that language in mid-May, section 402(a) was the section describing the State Litigation (Settlement) Account, not the manufacturer payments (which were then section 403). Title IV was renumbered by Senate Commerce (section 402 became section 451), but they did not change the reference to section 402(a) in the menu. As a result, that reference became a reference to the manufacturer payments. I dont think anyone is at fault, but certainly not the Administration. Attached are the relevant sections as we submitted them on May 16th.

MEMORANDUM FOR ERSKINE BOWLES

THROUGH: Franklin D. Raines

FROM: Sally Katzen

SUBJECT: Heads-up on USDAs Sugar Limit Notice

We are about to conclude review of a USDA notice announcing that the Department is (1) reversing its intent to increase the amount of sugar allowable in adult cereals reimbursed by WIC and (2) committing to conducting a comprehensive review of the overall nutritional content of the foods allowed under the program within six months.

USDA has been under considerable pressure by certain cereal makers to increase the sugar limit, particularly for cereals containing raisins that have a natural sugar content. A previous notice announcing USDAs intent to modify the sugar limit received over 800 comments -- the overwhelming majority of which opposed the change.

Any decision about modifying the Federal sugar cap will be deferred until the comprehensive review is completed. Several Members of Congress have expressed an interest in this issue.

Please let me know if you have any questions.

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

December 2, 1997

TO: Bruce Reed and Elena Kagan
FROM: Cynthia Rice and Andrea Kane
CC: Diana Fortuna
SUBJ: Background on Wisconsin Works (W-2)

We hear Governor Thompson is stopping by on Thursday, and thought you would like this summary of some key elements of Wisconsin Works (W-2), which includes some information Cynthia got from her recent visit to Milwaukee.

Everyone works: Effective 9/1/97, W-2 replaced welfare in Wisconsin. Everyone must do some kind of work, and cash is based on participation in work. There is no entitlement to assistance, but there is "a place for everyone who is willing to work to their ability." The program is available to all parents with minor parents, low assets and low income.

Self-Sufficiency Ladder: W-2 includes four kinds of work ranging from unsubsidized employment to W-2 Transitions depending on someone's ability (see attachment). It might be interesting to ask about the relative priority and utilization of these four activities.

New role for staff: Wisconsin has replaced eligibility workers and case managers with "financial and employment planners" who focus on self-sufficiency and responsibility. The FEPs are available to help people once they've entered unsubsidized employment.

Investment in support services and retention: Wisconsin has invested heavily in support services to help people transition from welfare to work and to help families maintain employment. Governor Thompson has been very vocal about the importance of investing in child care. All low income families below 165% of poverty are eligible for child care subsidies on a sliding fee basis, regardless of whether they have been on welfare. W-2 agencies may provide post-employment services including job coaches, training, education, and transportation to help someone succeed on the job.

One-Stop Job Centers: These are the single point of entry for employers and job seekers--W-2 participants as well as others. The state has entered into a contract with a W-2 agency for each county, with the exception of Milwaukee which has 5 contractors (see attached). In most places, the county is the W-2 agency; in Milwaukee, the W-2 contractors include private for profit and non-profit entities.

Earned Income Credit: Wisconsin is a strong advocate of the EIC, including the Advance EIC option (where employees get a portion of their EIC in each paycheck). The state is also

one of four to have a refundable state EIC.

February 10, 1997

MEMORANDUM FOR HEADS OF DEPARTMENTS

FROM: BRUCE REED

Assistant to the President for Domestic Policy

ELENA KAGAN

Deputy Assistant to the President for Domestic Policy

SUBJECT: Formation of Interagency Working Group on Early Childhood Development

As the President announced in his State of the Union Address, he and the First Lady will hold a White House Conference on Early Learning and the Brain this Spring. In conjunction with this Conference, and in light of recent scientific research on neurological development, the Administration will engage in a broad-based review of policy affecting our youngest children. As this review goes forward, the Administration will highlight ongoing and new initiatives to support these children and their families.

To initiate this effort, the President will issue an executive memorandum asking each agency to identify policies and proposals to enhance early childhood development. This memorandum also will call for the formation of a senior level interagency working group to share, examine, and develop these plans. Attached is a draft of this memorandum.

We will hold the first meeting of this working group on Friday, February 14, from 1:30-2:30 p.m. in Room 180 of the Old Executive Office Building. We would like you to designate a Presidential appointee to join this working group and attend this meeting. Because the President wishes to issue the executive memorandum shortly after this meeting, your designee should provide any comments you have on the memorandum before or at the meeting. In addition, designees should bring with them a list of the three to five programs or initiatives relating to early childhood development that your agency, at this early stage in the process, would most like to highlight. Given the Administrations commitment to a balanced budget and fiscal discipline, each agency should indicate the level of new funding, if any, these initiatives would require.

Please feel free to contact either of us with any questions.

Attachment

MEMORANDUM FOR BRUCE REED
GENE SPERLING

FROM:Ken Apfel

SUBJECT:Welfare-to-Work: Stenholm Proposal

As you know, the Administration will be including a \$3 billion "placeholder" provision in its Balanced Budget Bill for the Welfare Jobs Challenge. In addition, one of the five working groups established by the Administration and Congress on the FY 1998 Budget will focus on welfare issues. In all likelihood, any welfare jobs program will be developed in that group. However, at the moment we have very few settled principles for our position on jobs issues going into the working group sessions. Some in Congress are beginning to develop their approaches.

Attached for your information, is a brief comparison of the outline (there is no bill language yet) of Congressman Stenholms confidential Welfare-to-Work proposal to the Welfare Jobs Challenge principles included in the 1998 Budget and the design issues discussed and, in some cases, settled by the interagency working group on welfare jobs implementation last fall. I think this matrix may help us determine our principles as we prepare for the working sessions with the Congress. In the attached matrix, where the interagency working group did not resolve an issue, the primary options are listed.

We should probably hold a White House meeting on this soon, possibly followed by a meeting with HHS, DOL, and Treasury.

cc:Ann Lewis
Elena Kagan
Cynthia Rice

00*

January 23, 1999

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

Health Care -- Approval of Wisconsin BadgerCare Program: On Friday, HHS approved Wisconsin BadgerCare program, which is a combined Medicaid waiver and CHIP plan that expands Medicaid coverage to families with incomes below 185% of the Federal poverty level. This approval represents closure to a long-standing impasse between HCFA and Governor Thompson. Wisconsin originally proposed to use their CHIP allotment (and its higher Federal matching dollars) to cover both children and adults. Such an approach is inconsistent with the law that restricts CHIP funding to be used only for children (with limited exceptions) and was vigorously opposed by Congressional Democrats and advocates. The part of the compromise that was attractive to the Governor was the provision that allows the State to roll back coverage if it no longer has the financial resources to maintain the coverage expansion. He agreed to a Medicaid waiver rather than a CHIP waiver because he wanted his high priority BadgerCare program approved before his State of the State address next week. This action will likely be well received by Congressmen Barrett and Kletchka, who defended our opposition to the States initial proposal but pushed us aggressively to find an acceptable conclusion. Wisconsin program, when fully implemented, will provide health insurance coverage to over 23,000 children and 27,000 adults.

Health Care -- Dingle Meeting on Medicare and Patients Bill of Rights: At a Thursday meeting, Mr. Dingle pleaded with us to provide him with a clearer sense of where we wanted the Medicare Commission to go and to expedite our analysis of the Breaux Medicare reform concept. We gave him our commitment to do so. In the meantime, we are in the process of obtaining final estimates from the Medicare actuary and will keep you apprised of new analysis and developments on this issue. Mr. Dingle also indicated his desire to work closely with us in developing a strategy to pass a strong Patients Bill of Rights through the House. Earlier in the week, Congressman Ganske refused to cosponsor Mr. Dingles reintroduced bill because he wanted to work out an alternative in the liability / enforcement section first. This provision of the bill, now even more vulnerable in the face of a rare \$116 million judgement against Aetna Health Plans of California, has appeared to unsettle some of the Blue Dog Democrats and Republicans who initially cosponsored the Dingle-Ganske bill. We are reviewing compromises now on liability and enforcement that will keep our base of supporters for the original legislation while hopefully attracting a few more Republicans. As we do this, we will be closely consulting with Senator Daschle, Senator Kennedy, Senator Chafee and others.

Tobacco -- Tobacco Farmers: The four largest cigarette companies agreed Thursday to set up a \$5.15 billion trust fund to help tobacco growers who face a shrinking market due to the state settlements that raised the price of smoking and is expected to reduce demand. The companies had agreed to meet with state officials to discuss the trust fund for farmers as part of the \$206 billion state settlement last November. There are many details still to

be worked out, but it was announced the funds would be distributed over 12 years. During the fund's first year, the companies would put in \$380 million, (Philip Morris has already contributed \$300 million, the bulk of the payment). The second year, the companies would deposit \$280 million; the third year, \$400 million; years four-10, \$500 million a year; the 11th year, \$440 million; and the 12th year, \$150 million. Gov. Hunt, who helped spearhead the effort, said each state will receive a share of the fund equal to the amount of tobacco it grows. The eleven participating states are North Carolina, Ohio, South Carolina, Tennessee, Alabama, Florida, Georgia, Indiana, Kentucky, Virginia and West Virginia. News stories quoted Governor Hunt as stating: "We all leave here today winners with a positive outlook for a measure of financial assistance for our tobacco farmers." Bruce Reed spoke with the Washington Post congratulating Governor Hunt and other state leaders for this positive step and reaffirming the Administration's commitment to protecting tobacco farmers and their communities. USDA will issue a similar statement. We have also spoken with leaders of some of the leading tobacco farmer organizations to explain recent Administration proposals and our continued commitment. The farm groups have expressed concern that a federal suit and new federal tax will further decrease demand for tobacco, but privately acknowledge that the threat of further federal action has thus far probably aided their efforts in negotiating the \$5 billion trust fund.

Tobacco -- Lawsuit Announcement Reaction: Your announcement that the Department of Justice is preparing a plan to take the tobacco companies to court was a welcome surprise to our allies. Key member of Congress (Sens. Durbin and Kennedy) and public advocates (Campaign for Tobacco-Free Kids) vigorously defended the basis and policy for such a suit. The announcement seemed to have caught the industry off guard. A joint statement by the big three cigarette producers called the plan a "political gesture" the continuation of "a witch hunt against a legal industry." Tobacco stocks fell sharply on Wednesday and the stock prices of both Philip Morris Inc. and R.J. Reynolds Tobacco Co. were down again on Thursday.

Education -- Legislation Introduced in Senate: This week Senate Democrats introduced the Public Schools Excellence Act (S.7), which includes our school modernization and class size reduction proposals and an after school initiative which incorporates both the 21st Century Learning Program and funds for community-based after-school programs through the Child Care and Development Block Grant. The bill also includes a Teacher Excellence Act which closely tracks one we have been developing as well as relevant aspects of your accountability proposals. The bill would provide \$1.2 billion to states and local school districts to help raise teacher certification standards, recruit excellent teacher candidates, retain and support promising beginning teachers and provide veteran teachers and principals with ongoing professional development needed to help all children meet high standards. Under this teacher quality proposal, states and school districts would be accountable for reducing the number of teachers with emergency credential and out-of-field placement of teachers.

Senate Republicans also introduced a bill to extend ESEA this week. However, the bill contains only a statement of themes and principals -- returning control to parents, supporting exceptional teachers, making schools safe, directing federal dollars to the classroom, and stressing basic skills and proven practices -- that will eventually be translated into specific legislative proposals.

Education -- Ed-Flex: Chairmen Goodling and Jeffords, with strong support from the Speaker, the Senate Majority Leader and NGA, are planning to mark up Ed-Flex legislation (which would extend the authority to waive many federal education requirements to all 50 states,

in exchange for a system of standards, school report cards, and state intervention in low performing schools). as early as next week, with the intention of moving it on a fast track, separate from the ESEA reauthorization. Goodling in particular has indicated a desire to work with us to fashion a bipartisan bill, ostensibly in order to set a bipartisan context for work on ESEA, though we suspect also to create some tension between us and committee Democrats who last year showed little interest in this proposal. While we would prefer to take up any Ed-Flex proposal in the context of ESEA, we believe our support for this proposal last year will make it difficult for us to oppose speedy action on it now. As we consult with Kennedy, Clay and others on the hill, our overall strategy will be to (1) emphasize our support for the principles of more accountability and more flexibility (2) stress our preference to take Ed-Flex up as part of ESEA reauthorization (3) insist that any Ed-Flex provision that moves in advance of ESEA be revisited during the reauthorization process, and be drafted so as to not permit states to waive the new accountability provisions announced in your State of the Union address.

Education -- Reaction to your accountability proposals: Overall initial reaction to your education proposals has generally been positive within the education community and in the press. The education community is supportive of your proposals, understands clearly the need to meet the challenges of raising standards, turning around failing schools, ending social promotions and the use of unqualified teachers. At the same time, many are worried about their capacity to meet these challenges, and will be looking to the Administrations budget and ESEA reauthorization proposals for financial, programmatic and technical support to carry out the needed reforms. Your proposals have also generated considerable press attention, with several stories this week in the New York Times, Washington Post, and USA Today. These stories have focused on the content of your proposals -- particularly on the pros and cons of ending social promotion -- and on the threat that states and school systems could lose funding if they fail to implement them. There have been a number of favorable editorials, including one by Diane Ravitch in the Wall Street Journal, NYU education professor John Zimmerman in the New York Times, and Timothy Noah in Slate magazine. Criticisms of your proposal have come from David Broder, who charges that your proposals merely replicate and add a layer of federal bureaucracy to what the states are already doing, and Lamar Alexander, Checker Finn are quoted in a number of stories criticizing your proposal as a federal takeover of state and local education systems.

Welfare Reform -- Welfare-to-Work Event Next Week: Mondays welfare to work event will give you the opportunity to celebrate the success of welfare reform and underscore the need for the new welfare-to-work initiatives in your budget. With welfare caseloads down by nearly half and over 10,000 companies committed to welfare-to-work, you will announce a new package of initiatives designed to ensure that those remaining on the welfare rolls make a successful transition from welfare to work, with a new focus on increasing the employment of low-income fathers so they can support their children. Your \$1 billion Welfare-to-Work initiative will provide a minimum of \$150 million to ensure every state helps fathers fulfill their responsibilities to their children by working and paying child support. Remaining funds will focus on those long term welfare recipients with the greatest challenges to employment such as limited English proficiency, substance abuse problems, and disabilities. You will also announce that your budget will contain new welfare to work housing vouchers, transportation funds, and tax credits to help those on welfare get to work and stay employed. Taken together, these initiatives will provide parents the tools they need to support their children and succeed in the workforce. Besides highlighting these initiatives, the event will provide you with the opportunity to recognize the 10,000 businesses of all sizes, industries and regions who have joined the Welfare to Work Partnership and are learning every day that hiring from the welfare rolls is good

business. Since May, the number of companies in the Partnership has doubled from 5,000 to 10,000.

Welfare -- Legal Immigrant Benefits: On Monday while in California the Vice President is going to announce the Administrations new budget proposal which restores \$1.3 billion in health, disability and nutritional assistance programs for legal immigrants. This proposal builds on this progress weve already made because of your leadership: the Balanced Budget Act of 1997 restored disability and health benefits to 420,000 legal immigrants who were in this country before welfare reform became law, at an estimated cost of \$11.5 billion, and the Agricultural Research Act of 1998 provided Food Stamps for 225,000 legal immigrant children, senior citizens, and people with disabilities who came to the United States by August 22, 1996. The new budget proposal will 1) restore eligibility for SSI and Medicaid to legal immigrants who enter the U.S. after the enactment of welfare reform on August 22, 1996, become disabled, and have been in the U.S. for five years (this costs approximately \$930 million and will assist an estimated 54,000 legal immigrants by 2004, about half of whom will be elderly); 2) builds on the progress made in the Agricultural Research Act by allowing legal immigrants in the United States on August 22, 1996 who subsequently reach age 65 to be eligible for Food Stamps, at cost of \$60 million; and 3) provides states the option to provide health coverage through CHIP or Medicaid to legal immigrant children and pregnant legal immigrant women who entered the U.S. after August 22, 1996 (costing \$325 million and serving approximately 78,000 women and children).

Civil Rights -- English Language/Civics Initiative: On Monday January 25th, while in Los Angeles, the Vice President will announce the English Language/Civics initiative that is part of your FY 2000 budget. This \$70 million initiative is designed to help states and communities provide expanded access to high quality English language proficiency instruction, linked to practical instruction in civics and life skills including how to navigate the workplace, public education system, and other essentials. This initiative will both help meet the extraordinary demand for English and civics instruction in immigrant communities and will demonstrate our shared commitment to fully integrating new Americans into our social and civic life. States, community-based organizations, local education agencies, and other non-profits will compete for grants to support English proficiency and civics instruction. With \$70 million, the initiative will be able to provide English language and civics instruction to approximately 150,000 people in FY 2000.

Drugs -- Republican Legislation: On Tuesday, Senate Republicans introduced an omnibus drug bill, the Drug Free Century Act. The bill's major titles cover international supply reduction, domestic law enforcement and domestic demand reduction. We are working with the agencies to review the specifics of the proposed bill. Among the bill's key provisions:

International Supply Reduction: Strengthens punishment for violent crimes committed along the border; establishes penalties for exporting contraband; provides for extradition in certain instances without a treaty; and expands penalties for and reports requirements to deter money laundering.

Domestic Law Enforcement: Doubles the number of border patrol agents to 15,000 by FY 2004; increases mandatory penalties for powder cocaine sentencing (from 5 kilograms to 500 grams for a 10-year sentence, and from 500 grams to 50 grams for a 5-year sentence); and enhances penalties for certain drug offenses committed in the presence of children.

Domestic Demand Reduction: Prohibits federal funding of needle exchange programs; authorizes a \$10 million drug-free teen drivers incentive grant program; and establishes

new \$5 million DEA drug-free families grant program.

Funding for Counter-Drug Enforcement Agencies: Increases funding and establishes earmarks for specific Customs, Coast Guard, DEA, Treasury and Defense counternarcotic operations.

The bill contains many provisions which were introduced by Congressional Republicans last year. We also expect Senate Republicans to submit omnibus crime legislation in the coming week.

Crime -- Gun Shows: In response to your 11/6/98 directive, the Treasury and Justice Departments are ready to submit a joint report to you with their recommendations on gun shows. The report indicates that there were over 4,400 gun shows advertised in 1998, most of which were promoted by about 175 firearm collector organizations and individuals. While federally-licensed firearms dealers (FFLs) comprise 50 to 75 percent of the vendors at most gun shows -- and are required by the Brady Act to conduct background checks on prospective purchasers -- non-FFL vendors are under no legal obligation to conduct a background check or keep records on their sales, making it impossible for law enforcement to trace firearms they sell which are later recovered at crime scenes.

The report confirms that gun shows provide a forum for illegal firearms sales and trafficking, and serve as a source for firearms used in crimes. In compiling the report, Treasury and Justice reviewed 314 gun show-related investigations involving more than 54,000 firearms. The investigations span a wide range of federal firearms violations, including straw purchases, transactions by FFLs without Brady checks, and the sale of kits to modify semiautomatic firearms into automatic firearms. Over 46 percent of the investigations involving gun shows involved felons buying or selling firearms. In more than a third of the investigations, the firearms involved were known to have been used in subsequent crimes, including homicide, assault, robbery, and drug offenses. Many of the investigations involve numerous firearms: more than a third involved over 50 firearms and about one-tenth involved over 250 firearms.

In order to close the gun show "loophole", Secretary Rubin and Attorney General Reno's key recommendations include:

(1) Broadly defining "gun shows", to cover not only traditional gun shows but also flea markets and other similar venues where firearms are sold.

(2) Requiring gun show promoters to register with ATF. Promoters would be required to provide the time and location of every gun show, a list of vendors (both FFLs and non-FFLs), ensure that all vendors are given information about their legal obligations, and require vendors to acknowledge receipt of it. Failure to fulfill these obligations could result in revocation or suspension of registration or civil or criminal penalties.

(3) Requiring Brady background checks on all firearms transferred at gun shows. All firearms would be transferred by, or with the assistance of an FFL. Thus, FFLs would conduct a Brady checks and retain records for all sales by a non-FFL.

(4) Reporting information to the ATF's National Tracing Center (NTC) on firearms sold at gun shows. This would require FFLs to submit certain information (e.g., manufacturer, serial number) on all firearms transferred at gun shows to ATF's NTC and retain such information to assist in future firearms trace requests by law enforcement.

(5) Developing an educational campaign, in conjunction with the firearms industry, to encourage all firearms owners to take steps to ensure that firearms do not fall into the hands of prohibited persons such as criminals or juveniles.

In addition, the Departments are continuing to review the definition of "engaged in the business" of selling firearms to make future legislative and regulatory recommendations. The Gun Control Act requires that those who seek to "engage in the business" of importing, manufacturing, or dealing in firearms must obtain a Federal firearms license. Engaging in the business without a license was involved in more than half of the 314 investigations reviewed by Treasury and Justice.

The report also recommends committing more resources to combat illegal firearms sales at gun shows. Your FY 2000 budget includes \$24 million in new funds for firearms enforcement, a portion of which Treasury/ATF will use to bolster their enforcement efforts at gun shows.

April 24, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: GENE SPERLING

RE: NEC WEEKLY REPORT

CC: ERSKINE BOWLES

1998 World Competitiveness Report -- America: The World's Most Competitive Economy Again: On Monday (4/19), the Institute for International Management Development (IMD) released their 1998 World Competitiveness Report. For the fifth year in a row, the United States was ranked the most competitive economy in the world. The IMD cited our strong economy, massive domestic investments, labor market flexibility, and deregulation as the reasons for our #1 ranking. In 1992, they ranked the United States #5 -- behind Japan, Germany, Denmark, and Switzerland. This report used to be prepared jointly by IMD and the World Economic Forum. However, they split in 1995 and decided to publish rival surveys, with IMD maintaining the same methodology and the World Economic Forum developing an alternative survey. You should know that while IMD ranked the America #1 in 1997, the World Economic Forum placed the U.S. at #3, behind Singapore and Hong Kong. The World Economic Forum has not yet published their 1998 competitiveness report.

IRS Hearings: The Senate Finance Committee will begin another round of hearings next week, beginning on Tuesday. The hearings will focus on the Criminal Investigations Division of the IRS and are going to be more sensational than the previous hearings. The Senate Democrats have been completely excluded from the process and are angry. Senator Daschle has criticized the Republicans in advance of the hearings. We believe that Moynihan wrote a letter to Roth that was sent on Friday--we don't expect it to be leaked until Sunday. On Wednesday, Rahm, Paul, and I met with Secretary Rubin to discuss our strategy. The IRS and Treasury have been actively recruiting a major law enforcement figure to head up an investigation into the criminal division. Treasury and the IRS are trying to finalize the arrangement by early next week. Commissioner Rossotti has asked Chairman Roth that he be allowed to testify at the outset of the hearings. Roth is apparently going to reject the request and Rossotti is likely to testify at the end on Friday. He will give strong testimony, expressing no tolerance for the types of abuses raised. Either at that time or before, the IRS will likely announce Administrative actions in response. Treasury is also working on possible relevant amendments that could be added to the IRS reform bill when it moves to the Senate floor.

Unemployment Insurance Reform: On Thursday (4/22), the Department of Labor transmitted to the Hill the reforms to the Unemployment Insurance (UI) system included in your FY99 budget. The legislation was subsequently introduced by a bipartisan group of Congressmen: Levin (D-MI), English (R-PA), and Rangel (D-NY). Our proposals strengthen the UI safety net in three ways: (1) it provides incentives to States to implement administrative systems that will make the program more accessible to low-wage workers, increasing the proportion of unemployed workers receiving UI; (2) it revises the program's unemployment triggers to make extended benefits more readily available during recessions, helping to avoid situations like the one that arose during the last recession when the Federal government had to allocate \$28.5 billion to provide extended benefits to unemployed workers; and (3)

it provides incentives to States to voluntarily improve the solvency of their unemployment trust funds and thereby their ability to pay benefits if unemployment increases. These proposals are a first step toward more comprehensive reform. An interagency NEC working group will continue to meet to develop more extensive reform proposals.

Social Security: Three developments on Social Security are worth noting this week. First, the Ways and Means Committee approved the Archer commission bill by voice vote on Wednesday (4/22). In addition to creating a formal National Dialogue on Social Security (led by two Facilitators and a Dialogue Council, with representation from a long list of interest groups and think tanks), the bill creates a commission charged with designing a single package of long-term Social Security reforms. While we do not object to the National Dialogue component we have three serious concerns about the commission. First, we are worried that the commission (through leaks and perhaps periodic reports) could politicize the Social Security Reform efforts before the November elections. Second, the commissions reporting date (Feb 1999) is after the date we had hope to start negotiations thus delaying reform. Third, it is not clear at this point precisely what mechanism will be the best one to get reform done-- and legislating a commission could restrict our flexibility. You should also know that Speaker Gingrich has asserted publicly that Erskine had said that we would sign the bill in its current form. This is not true. What Erskine told Speaker Gingrich was that we are willing to listen to their idea and work them to see if there is an acceptable compromise. I have been in contact with the bi-partisan Leaders staff to explore possibilities.

Second, Senator Gramm held a press conference on Wednesday to release his reform proposal, which involves a 3 percent individual account starting January 1, 2000. Gramm claims to finance his proposal by using the projected surplus, reducing Social Security benefits by \$1 for every 72 cents withdrawn from an individual account, and earmarking for Social Security the additional corporate income taxes he assumes will result from higher national saving under the plan. Gramm has not yet subjected his proposal to scrutiny by the Social Security actuaries, however, his estimates are likely to prove inaccurate--particularly because of his unrealistic assumption of dynamic scoring to preserve existing benefits.

Social Security Trustees Report: The 1998 Social Security Trustees report will be released next Tuesday (4/28). Outside experts are expecting a slight improvement relative to the 1997 report (which showed a 75-year actuarial imbalance of 2.23 percent of taxable payroll, and forecasted that the Trust Fund would be depleted by 2029).

Medicare Trustees Report: Although there will be no information released on the status of the Trust Fund prior to the official release on 4/28, it seems clear that results from a recent analysis will hold: that the BBA reduced the 75-year actuarial deficit of Medicare by about one half. It is unclear whether the precise year of Trust Fund exhaustion will remain at 2010. You should have a chance on Tuesday to comment on the Social security and Medicare numbers.

AARP to Release Positive Analysis of the Medicare Buy-In: Next Thursday (4/30), the AARP will hold a press conference to release an actuarial analysis of the Medicare buy-in. We understand that the analysis confirms both our Actuaries and CBOs estimates of the premiums and suggests what the premiums would be if age eligibility were raised to 67. The American Academy of Actuaries may release a report in May with similar findings. Attention is also being directed toward the buy-in through a series of public forums. Chris Jennings spoke at one of these forums this week, and another is scheduled for late May. Moynihan is

considering holding hearings.

H-1B: Last week Sally Katzen and Elena Kagan met with House members and their staff to further discuss pending H1-B legislation. We anticipate that the House version of legislation to increase the number of temporary (H-1B) visas for foreign "specialty" workers will contain strong reforms to the H-1B visa program (as we have advocated for several years) and a training component (to insure that U.S. workers can obtain the skills needed by employers.) We expect Reps. Smith and Watt will introduce such a bill sometime next week. Also, we can expect that this issue will move quickly in both the House and the Senate because the current cap (of 65,000) on the number of H-1B visas is expected to be reached by mid-June.

G. I. Bill: If all goes well the Senate version of the G. I. Bill, the Workforce Investment Partnership Act, will reach the floor next week. We clearly support passage of the bill, but there is an amendment to the current Senate bill by Sen. Ashcroft that threatens the Administration legacy on School-to-work that the Administration strongly opposes. I spoke with Senator Kennedy myself several times to discuss strategy and we decided not to fight the amendment now in order to move the bill through the Senate, because Sen. Kennedy has gotten verbal commitments from Sens. DeWine and Jeffords to work with us in Conference to address our objections to the Ashcroft Amendment. Larry Stein also recommends this strategy.

Bankruptcy: As you know, the startling increase in consumer bankruptcy filings (1.3 million in 1997, an almost 400% increase since 1980) is giving momentum to an effort to make significant changes to the Bankruptcy Code; however, dramatically different diagnoses of the problem have produced varied approaches. Credit card companies argue that consumers are abusing the bankruptcy system and so advocate a new "needs-based" approach to bankruptcy, which would force some of those who can afford to repay a share of their debts to do so. These proposals are sharply criticized by consumer groups who blame the increase in bankruptcies on excessive credit extension. They offer competing proposals that would not allow collection of certain debts in bankruptcy if the credit were imprudently extended. The lack of definitive information and analysis cautions against a radical departure from the historic structure of the Bankruptcy Code, but some changes may be warranted. The NEC is running a process to develop a package that appropriately balances consumer and creditor interests and a strategy to address legislation moving on Capitol Hill.

Apparel Industry Partnership: Much to everyone's surprise, the AIP survived another meeting this week without defections. Secretary Herman and I pressed both sides to make reasonable compromises. Modest progress was made on external monitoring requirements and the Association's authority to address companies doing business in a country whose laws or practices make it impossible to be in compliance with the Code (e.g., China, where freedom of association and freely chosen unions are not recognized). Cooperative public behavior notwithstanding, we have reason to believe that we still face the possibility I warned of last week: UNITE (the key apparel industry labor union) departing, the other unions and NGOs unable to remain without UNITE, and the companies proceeding alone. We should have a report from the Labor/NGO caucus early next week. We will coordinate closely with DoL and Karen Tramontano and make recommendations to you on how to proceed.

Child Labor: The NEC convened a meeting (4/24) of DoL, State, Treasury/Customs, AID, USTR, NSC, OMB, and White House officials to get reports on child labor activities throughout the government and better coordinate activities to advance your child labor agenda. A working group will meet biweekly to produce a detailed Child Labor Action Plan and calendar.

Topics include: advancing your FY 99 budget initiative; the U.S. role in promoting the ILO Convention on Child Labor; the Customs Services child labor enforcement efforts; a strategy to respond to Rep. Chris Smith's legislation proposing international sanctions for child labor; better use of opportunities to highlight your child labor message; and better advance planning and coordination in connection with overseas trips.

Future of Manufacturing Extension Partnership: NEC staff this week chaired a Commerce-EOP meeting on the future of the Manufacturing Extension Partnership, which will be one of your legacies in technology policy. We have succeeded in achieving our start-up goals for MEP: a demand-driven network of 70 locally managed centers (up from 7 in 1992) in all 50 states that reach about 30,000 small manufacturers a year, half of them repeat customers. It is now time to stretch the goals and scope of MEP by optimizing this remarkable network and improving the effectiveness of program services. (For example, the current focus on helping firms manufacture commodities more efficiently needs to shift toward helping them develop higher value products.) To help us think about this more systematically, we agreed to ask the National Academy to organize a workshop on the future of the MEP.

User Fees for FAA: On Monday (4/20), Secretary Slater and Administrator Garvey announced legislation to make the FAA operate more like a business. Specifically, FAA air traffic control services would be centralized in a Performance-Based Organization and services for commercial (not general) aviation would be funded by cost-based user fees. These proposals largely mirror the recommendations of the National Civil Aviation Review Commission (chaired by Norm Mineta), with which OMB and NEC worked closely. NCARC's support for user fees followed from a similar recommendation by last year's "Gore Commission" on Aviation Safety and Security. As NEC director, Laura Tyson served on the Gore Commission; the NEC was the major champion for user fees, overcoming initial opposition from a majority of other commission members who preferred to continue the existing ticket tax.

Student Loan Interest Rates: Representative Arney and others are pushing for a "fix" to be included with the supplemental appropriations bill. Because it is the only truly time-sensitive driver on the HEA reauthorization, moving the interest rate provision to the supplemental unfortunately reduces the likelihood of Congress sending you a Higher Education reauthorization bill. But we may not be able to stop this from happening, so we will likely be involved in negotiations over the weekend. As you remember, the current interest rate proposal in Congress adopts the rate we recommended for students, but has taxpayers footing the bill for additional subsidies to banks. We have objected. It is possible that we will have to sign on to a compromise that will involve a higher rate for students than we proposed (for example, a 60 basis point reduction from today's rates rather than 80 basis points).

America Reads: On Thursday (4/23) Sen. Coverdell himself proposed to add the language of the House-passed Reading Excellence Act as one of the many amendments proposed to the Coverdell Education IRA legislation (As you know, the Goodling response to America Reads has some problems, but it is acceptable). At our recommendation, the Democrats accepted it on a voice vote. There was a good colloquy between Sen. Kennedy and Sen. Coverdell in which they agreed that it is important for a reading bill to pass soon (we need one by July 1 to use the \$210 million advance appropriation). Sen. Kennedy urged that this happen separately, through the normal process that would allow amendments.

Technology Training for Teachers: The NEC and the Department of Education met with over 100 people from around the country on technology training for teachers -- K-12 teachers, industry executives, faculty at teacher colleges, and state technology coordinators. The

purpose of the meeting was to (1) share best practices; (2) get input on the best uses of the Administration's \$75 million grant program; and (3) build private sector support for doing more to ensure that teachers can use technology effectively in the classroom. Assuming that we can get a critical mass of support from the private sector -- we would like to have an event on this issue.

Homeownership Rate for First Quarter of 1998: On Tuesday (4/20), the Census Bureau reported that the homeownership rate for the first quarter of 1998 rose to 65.9 percent, from 65.7 percent in the fourth quarter. This is below the all-time quarterly high of 66.0 percent in the third quarter of 1997. However, comparisons between quarters is difficult since the numbers are not seasonally adjusted. You should know that the first quarter number is the highest first quarter homeownership rate on record and over the past year, the average homeownership rate is also the highest on record. The homeownership rate for every group -- including central cities, African Americans, Hispanics, female-headed households, those with low incomes, and married couples under age 35 -- rose in the first quarter. And, through the first quarter of 1998, we still remain ahead of schedule in reaching your goal of 8 million new homeowners by the end of the year 2000.

Japanese Government Stimulus Package: On Friday (4/24), the Japanese Government announced the details of its 16 trillion yen stimulus package. It contains 11.3 trillion yen in "real water" stimulus, at the high end of what Treasury publicly called for several months ago when economic conditions were less negative. Hashimoto went further than his preliminary announcement two weeks ago by boosting public works spending from 6 trillion yen to 7.7 trillion, and extending its deficit reduction target date from 2003 to 2005. As expected, the package contains an additional 4 trillion yen in temporary tax cuts but no permanent tax cuts. Treasury believes the package, if implemented quickly and effectively, will significantly reduce the risk of a deeper recession, and may foster some growth in the short term. Market reaction has been slightly positive, but not effusive. Following an NEC Principals conference call on Friday morning, Secretary Rubin issued a statement welcoming the substantial and positive policy measures announced, and expressing his hope the government will put them into place quickly and effectively. He also noted the need for Japan to move forward with further measures to strengthen its banking system and open and deregulate its economy, to help establish a sound basis for longer term domestic demand led growth that will contribute to a recovery in Asia.

U.S.-EU Trade Initiative: On Monday (4/20), the NEC Deputies held a meeting this week to review progress toward a U.S.-EU trade initiative, with the hope it would be announced at the May U.S.-EU Summit. The EU General Affairs Council will meet on Monday, April 27 to see if an EU mandate can be reached, despite French opposition. Private indications are the they will achieve a political consensus on the outlines of a proposal, but the French will not permit a formal mandate to be granted. This might nevertheless permit agreement at the Summit to pursue a generally described agenda. However, differences between the U.S. and the EU remain in key areas, such as agriculture and audio-visual services, and EU capacity to move forward is not yet assured. We will keep you informed.

Sanctions: On Wednesday (4/22), the NEC Deputies met this week to reach agreement on the Administration's position toward Hamilton-Lugar legislation establishing better Congressional and Administration processes in sanction making policy. Our proposed position is positive toward the spirit of the legislation (to improve decision making and make sure all relevant factors are considered), but we would express concerns about some of the limitations on executive discretion contained in the bill. A proposed draft is being circulated in the OMB process. The Deputies also considered a lawsuit likely to be brought

by the business community by the end of April against a Massachusetts statute imposing economic sanctions on companies doing business with Burma. The USG may be asked by the court to intervene. Options are being refined for further Deputies and Principals consideration.

Africa Trade Bill: Senator Lott has informed us he will not move the Africa trade bill in the Senate unless we agree to permit the CBI trade bill to be attached to it. Sandy and I co-chaired a meeting on Friday, in which we agreed to signal to Lott we would agree to its inclusion. This will raise additional labor opposition, but the Africa bill is not likely to move at all otherwise. Lott has also suggested he wants to add fast track to the bill. We intend to try to dissuade Lott from this course, after consultations with Daschle first. Stein and others will follow up.

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ADMINISTRATIVE MARKING
NOT NATIONAL SECURITY INFORMATION
SO 6/17/2010

~~CONFIDENTIAL~~

TO: MORLEY
FROM: JEFF
RE: MY TRANSITION ISSUES

First, let me again say that I hope that you'll consider me (within reason, of course) to be heading up the Central Region office, and will call on me when you need me. In return, I plan to borrow liberally from you, and hope that I can call on you from time to time.

Following is a summary of specific issues that I have had the responsibility for, and which need to be addressed in transition. As is the case with most of the jobs around here, mine has involved a lot of firefighting, which is hard to describe and harder to predict, other than to say that it will be an ongoing part of being here. Lisa and Kelly can pick up a lot of this, which in part means making a conscious effort to be aware of things going on at and coming out of NPR, and to look at them from a political perspective, being prepared to alter, stop, or reinforce as necessary. Your direct involvement in NPR issues will help greatly.

Aviation Safety/Security

Last year, the VP chaired the White House Commission on Aviation Safety and Security. Unfortunately, that means that he will continue to be involved in some of these issues, which tend to be thorny and of a fire-fighting nature.

In the Commission report, we made it explicit that the responsibility for implementing changes lies with the agencies, primarily DOT/FAA. DOT Secretary Slater is charged with issuing annual progress reports. DOT General Counsel Nancy McFadden (FYI, a Californian) is the point person, and is diligent both in pushing internally and in keeping us informed. Nancy is someone you should meet when you get a chance.

One interesting thing that may come to your attention: one of the commissioners, Victoria Cummock, has sued the VP and Secretary Slater. She was on the Commission as a representative of families of victims, having lost her husband on Pan Am 103. When she didn't get her way on some of her recommendations, she sued, in large part focusing on a lengthy dissenting opinion piece which was not printed in its entirety in the Commission's report (her 15 page dissent was printed -- a more detailed background piece was not). McFadden and DOJ attorneys are handling this, with Burson involved as necessary. Hopefully, you will never have to deal with this, but I wanted to let you know it was out there.

Needed action:

1. Monitoring. I get periodic updates from OMB and DOT staff on issues relating to implementation of the Commission recommendations. I have had two main goals in this regard: first, by maintaining some level of focus on this, to keep some forward pressure on; and second, to be ready to intervene as necessary to ensure that things don't go off track.

2. Intervention. As a matter of principle, I've tried to avoid having to get directly

involved in implementation issues, leaving it to DOT/FAA to get it done. But, there are two primary ways in which we have been involved, and could continue to be involved. First, budget issues. DOT will have continuing battles with OMB on the budget front, as the reality of funding key recommendations (e.g., \$100 million/year for security equipment and several \$billion for accelerating air traffic control modernization) hits home with the bean-counters. OMB PAD Michael Deich sat on the Commission and is in the middle of these decisions. I have requested and have gotten heads up on pending OMB recommendations that could impact implementation. There may be an ongoing need to weigh in on these issues.

The second area is regulation. This is not so much a substantive issue as a procedural one - pushing DOT to get rules out of their door, and/or pushing OMB to get it through their processes. DOT General Counsel Nancy McFadden is very good, and will alert us to any problems they're having with OMB.

Gerry Kauvar was the staff director of the Commission. He is familiar with the issues, and is, in many respects, the logical choice to take over this stuff. LeeAnn was involved in the early parts of the Commission, managed the legislative process, and dealt with people on the Hill. Although she's not as familiar with the details of the Commission work, she could be of additional help. Regarding Gerry, there are a few issues that I want to alert you to. We (VP, Ron, Elaine, and I) have consciously avoided getting the VP too visible on these issues since wrapping up the Commission. That point should be reinforced with Gerry, who I think might be inclined to be more involved than necessary/desirable. (For example, I would make it clear that we don't need to be attending aviation conferences, which would only reinforce the VPs role/involvement in these issues). Many of the key people at DOT, OMB, FAA don't particularly like working with Gerry. They will, of course, work with whomever representing the VP. But, particularly because of the sensitivity of some of the issues, Gerry should not be the only person they're dealing with.

3. Press inquiries. As much as we try to stay out of the press on these issues, it still happens. Heidi is the point person, and will come to me with specific questions, requests for something in writing, or asking me to talk to reporters. When the Commission was going, Elaine was the primary person dealing on the record with the press.

Immigration and Naturalization Service reform

In October, the Commission on Immigration Reform (CIR) issued recommendations, the central theme being to dismantle INS, and spread its functions out among various other agencies. Attached is a memo I sent the VP on the announcement.

The Domestic Policy Council is leading the Administration review of the recommendations and the development of the Administration response. Elena Kagan is the point person. Other key people involved are Maria Echaveste of Public Liaison and Charles Ruff/Rob Weiner, WH Counsel. I have been attending meetings for the VP. The plan is to develop an Administration proposal within the next 45 or so days - - ideally in time for any necessary changes to be reflected in the budget.

This is a very sensitive subject, of importance to important ethnic constituencies. Depending on the recommendations that come out of the DPC working group, decisions likely will be bumped up to the highest levels. I suggest that either Lisa or Kelly take this over, but with the understanding that you'll have to stay on top of things.

VP Staffing

For events that are ours, were responsible for staffing the VP -- which includes preparing background briefing materials (that go into his book the night before), and then being with him at the event. If its an event within the WH complex, you or the appropriate person would usually meet him at the previous event, and then walk with him to go through the background materials, answer any questions, etc. Ive often done this. If youre not going to do it, you should be selective in deciding who would do this for any given event -- it should be someone the VPs comfortable with, and who can do a briefing very quickly and on the run.

For background materials, theres a standard format for briefing memos, which Lisa and LeeAnn are familiar with. Briefing materials need to get to the domestic policy staff, which puts together the daily briefing books, by 6pm or so. Lisa should be responsible for this, which means either doing it herself, or making sure that the right person at NPR has done it.

Communications

Speechwriting. The VP has on occasion given rego-specific speeches, in which case either Doug or I have drafted them. Under Eli Attie, the OVP speechwriting office hasnt been as inclined to have anyone else do the drafting. As things come up, I think you can go with this arrangement: Tom Flavin or Doug can do a first draft, to get in the things that NPR wants; then, give it to Eli, who will take responsibility for finalizing it.

I have also written op-eds and other pieces for the VP; I think the same arrangement can work for things like that.

The other thing involving speechwriting is when Eli or Andrei come looking for examples to include in speeches, or for verification of something. In addition to whatever involvement you want to have in this, I suggest that Kelly be the point person for them on this.

Editing. Many NPR documents need to be fine-tuned (or massively re-written) to address political sensitivities, or to try to put them into terms that will matter to an external audience. I suggest you talk to Larry Haas about how to do this in the future.

Miscellaneous press. Well get requests from the press office, either for interviews with you, or for information to address specific questions. And, from time to time, we will get a call from the WH press office, asking for quick talking points on a subject that is expected to come up at the daily 1pm briefing. For example, today I got a call asking for talking points on TWA 800. These requests can be handled by various NPR people, but there are two major criteria: the points have to be concise (about 3/4 page at most), and they have to be done very quickly. Usually, theyll come either to me directly or through Heidi in the press office. I suggest that either Kelly or Lisa be the point person on these.

Scheduling

Weve pretty much done this hand-off, with Lisa picking things up. The responsibilities here are: getting specific rego events on the schedule (theres a formal scheduling request form that would go from you to Kim Tilley that starts the process); looking for opportunities within other events/travel plans; making sure that youre getting your staff time, and any other specific meetings you may need.

*Figure 1

MEMORANDUM FOR:DIRECTOR

CC:DEPUTY DIRECTORS
PROGRAM ASSOCIATE DIRECTORS
OFFICE DIRECTORS

FROM:T.J. Glauthier

DATE:July 28, 1997

RE:NRES Weekly Activities Report for July 14-18th, 1997.

Attached are copies of my Divisions weekly reports. As always, you may access recent copies of the Divisions Weekly Activities Reports with links to interesting articles on the OMB Intranet.

Natural Resources Division
Weekly Report
July 18, 1997

Agriculture Branch

Update on Lake Tahoe Presidential Forum (Mark Weatherly x53446)
Meeting with USDA Regarding their Information Streamlining Plan (Stuart Kasdin x53446)
Privatization of USDA Funded Water and Wastewater Treatment Facility (Jennifer Wagner x53446)
Crop Insurance Reimbursement Rate (Stephen Frerichs x53446)
GPRA Meets Ag Exports (Daniel Heath x53446)

Environment Branch

Status of Superfund Legislation (Neil Shapiro x56827)
EPA Pulp and Paper Rule Under Review (Rob Fairweather x56827)
Final Ozone and Particulate Matter Rules Signed (Carrie Jelsma x56827)

Interior Branch

Endangered Species Act (ESA) Reauthorization Bill to be Introduced Soon
(Janet Irwin x54806)
U.S. Geological Survey to Propose Buyout (Gary Reisner x54806)
National Park Service Concessions Report Submitted to OMB (Gary Reisner x54806)
DOJ/DOI Initiative on Law Enforcement in Indian Country (Rich Kodl x54806)
DPC Indian Affairs Working Group Meeting (Rich Kodl x54806)
Commonwealth of the Northern Mariana Islands (CNMI) Report to Congress (Jim Kazel x54806)

Minerals Management Service (MMS) Misc. Final Rules (Jim Kazel x54806)

Agriculture Branch

UPDATE ON LAKE TAHOE PRESIDENTIAL FORUM -- Next week (7/25) the Vice President kicks off the Lake Tahoe (CA/NV) Forum, followed the next day by the Presidential Forum. NRD staff have been involved in meetings this week on the "deliverables" for the Forum, which could include announcements of Federal agency initiatives in the areas of clean water, forest fire prevention, and transportation. In addition, a Presidential Executive Order has been drafted that would create an interagency group of several department Secretaries to coordinate program delivery in the Lake Tahoe basin area. The E.O. will be reviewed and processed through OMB and the White House next week. The list of agency deliverables for this event will be narrowed early next week, and OMB will also be reviewing the Presidential briefing materials.

MEETING WITH USDA REGARDING THEIR INFORMATION STREAMLINING PLAN -- USDA policy officials, led by Deputy Secretary Rominger and CIO Anne Reed, met with OMB (OIRA and NRD) on July 17th regarding the Department's Information Streamlining Plan (ISP) and the status of the Farmers' Paperwork Burden Reduction Initiative called for in the FY 1998 Budget passback. Sally Katzen, who chaired the meeting, focused attention on four significant areas: lapses in Departmental compliance with the Paperwork Reduction Act; little progress to date on the Farmers' Paperwork Initiative; an ISP submission that raised doubts about the Department's commitment and ability to achieve the goal of 25% paperwork burden reduction; and problems with the Department's internal Year 2000 assessment. OMB emphasized that real progress toward paperwork burden reduction was needed and that it would be an issue during the FY 1999 budget development. USDA committed to continue to do more in these areas. In the meantime, the Department will submit a schedule for activities, with interim steps and milestones for the Farmers Paperwork Burden Reduction Initiative and a final report by September 30th.

PRIVATIZATION OF USDA FUNDED WATER AND WASTEWATER TREATMENT FACILITY -- Representatives from NRD, USDas Rural Utilities Service (RUS) and the West Virginia American Water Company (WVAWC) met with representatives from Senator Rockefeller's office on July 14th to discuss outstanding issues surrounding the proposed sale of the Mossy Public Service District (Mossy) public water system (funded by RUS) to the WVAWC. Resolution in this case has been slow because of disagreements over the application of Infrastructure Privatization Executive Order 12803 (E.O. 12803). Further, review of the issues has been careful because this case will set precedent on how E.O. 12803 will be followed for future sales of RUS-funded treatment facilities.

While many of the originally contentious issues, including recoupment of USDA grants and what depreciation method to use, have been resolved, the "Transfer Price" clause is still under review. E.O. 12803 states the transfer price will be "the appraised value of an infrastructure asset, as determined by the head of the executive department or agency and the Director of the Office of Management and Budget, if the asset is not transferred as a result of competitive bidding", which Mossy is not. An outstanding issue to be resolved is whether and how to include forecasted future repair costs in the Utility's appraised value; these costs could reduce the appraisal value to zero, which could eliminate any recovery of Federal investment upon sale. NRD argued reasonable expected costs necessary to keep the system operating at its originally-intended level be used; USDA suggested an average of past years maintenance costs be used; and WVAWC argued that expected maintenance costs plus the costs to hook-up

Mossy to their regional system be used. Currently there are no guidelines on the specifics of appraisals to this degree. NRD agreed to work with USDA and WVAWC to set acceptable guidelines on the appraisal process, which should pave the way for future deals of this sort to be completed in a more timely manner.

CROP INSURANCE REIMBURSEMENT RATE -- NRD and USDA met this week to discuss the "state-of-play" in the appropriations process for the crop insurance administrative reimbursement rate paid to private insurance companies. The Administration has offered the companies a reimbursement rate of 24.5% of premiums sold for the 1998 crop (the FY 1997 rate is 29%). The companies have refused to sign a contract at that rate and have lobbied Congress to provide more discretionary funding. The reduced rate offered by the Administration is based on a GAO audit that found considerable padding by the companies of their expenses in FY 1995 and 1996.

Funding for crop insurance administrative expenses is split discretionary/mandatory in FY 1998 (prior to FY 1998 it had been completely mandatory). Both the Senate and the House Full Committee bill provide more funds than the Administration requested (\$203 million and \$189 million respectively, versus a \$150 million request). However, neither Committee directs the Administration to reimburse the companies at a rate higher than 24.5% (they don't want to take the "corporate welfare" heat). Under current law, the Administration can reimburse UP TO 28%. Without any bill or report language, the intent of Congress is unclear, but the companies clearly interpret the additional discretionary funds as a signal from Congress to reimburse at a rate greater than 24.5% and have refused to sign a contract for crop year 1998.

During the meeting, NRD and USDA agreed to hold the Administrations offer at 24.5%, absent a clear signal from Congress. We anticipate getting a clearer picture after House and Senate floor debate on the appropriation bills. In the interim, USDA will draw-up several alternatives for NRD review and comment that could potentially be offered as the picture becomes clearer. Both the companies and the Administration are eager to get a signed contract in place. The companies need to flush out their compensation and get their business plans approved. The Administration needs the companies to sign the contract so that it can shift some of the underwriting risk to the companies. This becomes more critical as the hurricane season approaches.

GPRA MEETS AG EXPORTS -- USDA held a "GPRA Day" on 7/14 for its 200 top staffers engaged in promoting US farm exports. NRD staff addressed the conference session, along with Sens. Lugar and Kerrey. OMB encouraged the agriculture export community to aggressively seek robust, measurable performance in order to justify the Federal role in exports. Sec. Glickman subsequently spoke to the conference on 7/17.

Environment Branch

STATUS OF SUPERFUND LEGISLATION -- Meetings continue among EPA and Committee Staff in both the Senate and the House. In the Senate, Democratic staff, advised by EPA, are meeting with their Republican counterparts six days per week for several hours at a time, in an attempt to reach agreement on a bipartisan bill by the end of August. Most of the discussion to date has focused on clean-up remedy selection, where there are still significant differences between a Democratic proposal and the Republican bill, S.8. Some of the other agencies are expressing concern about the nature of the advice EPA is providing, as the sole representative of the Administration in these discussions. EPA says that it is

simply advising both sides, at this point, to move closer to the Administrations 5/97 Superfund principles, and that it will consult with the other agencies more closely as the discussions begin to reach the level of detail where different interpretations of that generally worded Administration document might become more important. In the meantime, NRD staff, and others, have stressed that EPA should make it very clear that its advice does not necessarily reflect the views of the whole Administration.

Progress is reportedly slower in the House, where the Republican position is even farther from the Administration principles than it is in the Senate. House Democrats, on the other hand, have complained to EPA that the Administration principles already give the Republicans too much of what they want, and they are also asking EPA not to weaken the House Democrats bargaining position any further by making more concessions in the Senate. Such a negotiating stance suggests that House Democrats might not want a bill at all. But CEQ reports that the House Democrats coalition is incohesive, with rumors that there could be a "blue dog" Superfund bill in this Congress, and further that the controversy over EPAs new air pollution standards could weaken the coalition even more.

Several Superfund legislative documents have been circulated to other agencies, including NRD, for comments and possible further discussion. At 11:00 am on Monday, 7/21, comments are due on:

Draft bill language on natural resources damages (circulated 7/17), which Interior and CEQ provided to other agencies to develop an Administration proposal to Senate Republicans and Democrats. It is reportedly consistent with the detailed principles circulated to other agencies in June. NRD had no objection to those detailed principles. (A meeting will also be held to discuss any comments at 11:00 am on Monday, 7/21.)

By COB Thursday, 7/24, comments are due on:

Draft bill language on cost allocation (circulated 7/17), and detailed principles on liability exemptions (circulated 7/10), which EPA provided to other agencies as a step toward a document to assist Senate Democrats in their discussions with Republicans. The cost allocation proposal is weaker than earlier versions supported by the Administration.

A House Republican proposal on liability (circulated 7/17).

A Senate Republican proposal on community involvement and health (circulated 7/17). This proposal may contain some of the provisions affecting HHSs Agency for Toxic Substances and Disease Registry (ATSDR) from a draft proposal that ATSDR submitted to OMB for review but that has not yet been cleared. But ATSDR claims that has not provided any part of that proposal to Congressional staff.

EPA PULP AND PAPER RULE UNDER REVIEW -- OMB (OIRA and NRD) has begun review of EPA's pulp and paper rulemaking. This final rule, a joint effort of the EPA Water and Air Offices, establishes effluent limitation guidelines as well as national emission standards for hazardous air pollutants for pulp and paper mills. The most controversial element of this rule is the effluent guideline. EPA analyzed two options. The first, supported by environmentalists, would require a facility to be totally chlorine free (TCF). The second, supported by the industry, would require the substitution of chlorine dioxide for elemental chlorine, with additional required treatment. The latter option also includes incentives, but not requirements, for facilities to go beyond these requirements to TCF. EPA has chosen the latter option because the benefits of TCF were not that much greater, while the

costs were substantially greater (the failure of one company with many facilities). Sally Katzen is encouraging OIRA to conclude review by mid-August.

FINAL OZONE AND PARTICULATE MATTER RULES SIGNED -- On Wednesday, July 16 Administrator Browner signed the final revised Ozone and Particulate Matter NAAQS, as well as the Regional Haze proposed rule. The final agreed upon benefits and costs are as follows. For PM full attainment, the estimated benefits are \$20-\$110 billion, and costs are \$37 billion. For Ozone full attainment, estimated benefits are \$1.5-\$8.4 billion, and costs are \$9.6 billion. Also on Wednesday, the President in a memo to Administrator Browner announced his implementation goals and a plan by which to achieve them (a hard copy has been forwarded to PAD/NRES). Generally, the President stated implementation of the revised rules should: remain flexible and cost-effective; respect existing agreements to improve air quality, avoid additional burdens regarding measures already under way, and reward those who take early action; require EPA to review its revised PM standard within five years to determine whether it should be revised before areas are designated nonattainment under the new PM standard, and before imposition of new PM controls; and avoid additional paperwork. Additional Representatives have announced their support of HR 1984 that would place a five-year moratorium on setting new standards. A rider to EPAs House appropriations bill was debated on the House floor this week, but withdrawn without a vote.

Interior Branch

ENDANGERED SPECIES ACT (ESA) REAUTHORIZATION BILL TO BE INTRODUCED SOON -- Senators Kempthorne (R-ID), Chafee (R-RI), Baucus (D-MT) and Reid (D-NV) have indicated that they intend to introduce legislation to reauthorize the Endangered Species Act (ESA) before the August Congressional recess. The Administration previously had not proposed reauthorization legislation, believing that the Act is working well and that administrative reforms initiated in this Administration can resolve most of the significant concerns about its implementation. However, on 7/17, Secretary Babbitt stated that the Administration will work with Congress on an ESA re-authorization stressing flexibility and habitat conservation.

CEQ for some time has been coordinating a low-key, constructive dialogue with majority and minority staff on the Senate Environment and Public Works Committee to iron out concerns with the various drafts the Committee staff have been producing. Some of the Senates concerns have involved expediting decision-making in the Federal agency consultation process and preventing time-consuming delays in agency actions (particularly the Forest Service) every time there is a change in a species status or new information about a species status becomes available. The Members intend to increase the importance attached to recovery planning, in addition to having some concern about balancing scientifically-based species conservation and recovery actions with the economic impacts that may occur in local areas. The draft legislation will likely require that the Secretary of the Interior (or Commerce) create "recovery teams" including state and local representation when a species is listed. At this time, it appears that a number of prospectively divisive issues have been adequately resolved or are likely to be by the time the legislation is introduced. Issues that may not be resolved include waiving the National Environmental Policy Act (NEPA) for various actions, and modifications of Federal water rights obtained from States. The House Resources Committee is still struggling internally over the elements they would like to see in reauthorization and are unlikely to have comprehensive reauthorization legislation ready any time soon.

U.S. GEOLOGICAL SURVEY (USGS) TO PROPOSE BUYOUT -- DOI will soon submit to OMB a USGS

buyout plan for OMB approval. This would be the only DOI buyout plan proposed for FYs 1997-98, and FTE ceiling reductions would only affect USGS, not DOI in total. The current draft plan calls for reductions of up to 500 FTE (through buyouts) from the 10,025 FY 1996 actual FTE level. Buyouts would be available up to December 31, 1997. The plan is not specific on actual costs, but estimates net savings of about \$5 million in FY 1998 and \$30 million per year in FY 1999 and thereafter, if the full 500 FTE reduction is realized. Based on earlier discussions, expected FY 1998 costs of about \$23 million were estimated for the buyout program, offset by about \$28 million in salary and benefits savings. Interior Branch (with assistance from the Personnel Branch) is working with the Department to strengthen the plan by targeting the buyouts more to specific job classifications and/or geographic areas, and considering an earlier deadline in the fiscal year. Given the 7/16/97 BRD draft planning guidance for DOI, if buyouts are not available to USGS, RIFs may be required.

NATIONAL PARK SERVICE CONCESSIONS REPORT SUBMITTED TO OMB -- DOI submitted to the PAD/NRES the concessions report, which was due in May and requested in passback. Interior Branch is just starting its review and will share it with OFFM. The report asserts that the National Park Service (NPS) is currently receiving an 8 percent return on concessioner gross sales. Three program modifications were considered: outsourcing of concession management functions; use of a master lease model for concessioner contracts; and appointment of an advisory board for the concession program. The report concludes that the NPS "does not feel it would be cost effective, or otherwise add value to the concession program to entertain" any of these modifications. A quick and cursory review suggests there is little factual or objective backup in the report to support the conclusions. Interior Branch (with OFFM) will complete a more detailed review and report to PAD/NRES. Improvements of NPS concession management will likely come up again during OMB review of the FY 1999 budget submission.

DOJ/DOI INITIATIVE ON LAW ENFORCEMENT IN INDIAN COUNTRY -- NRD has been informed that the President has approved, in concept, a memo for his signature to the Attorney General and Secretary Babbitt on this issue. It is expected that it will be signed next week. The memo briefly summarizes the significant crime problems in Indian Country and directs the AG and the Secretary of the Interior to propose constructive actions to address these problems. He has also been informed by the DPC (Elena Kagan) that two issues remain open. The first is whether to create a 15 member advisory committee that would include tribal representatives or to rely on more informal tribal consultations. The second is whether "recommendations" or "options" should be presented. The memo gives an October 31, 1997 deadline and it is expected that an initiative will be included in either or both agencies FY 1999 budget submissions. The memo specifies that any such initiatives should be consistent with funding targets of the Bipartisan Balanced Budget Agreement. NRD intends to include language on the initiative in its FY 1999 guidance to DOI.

DPC INDIAN AFFAIRS WORKING GROUP MEETING -- On 7/16, NRD (Irwin and Kodl) attended this meeting that was chaired by Secretary Babbitt. The most significant item concerned a preliminary draft of an Executive Order on a "Comprehensive Federal Indian Education Policy Statement". About 6 months ago the DPC decided to pursue this as a way to improve upon what is perceived as fragmented and inconsistent policies across Federal, State, and Tribal programs. Mike Cohen/DPC (who was not present) has the lead on this within the EXOP. Lynn Cutler/Intergovernmental Affairs remarked that "our OMB friends are here and that they should be sure that this gets funded". Despite this endorsement, after an Education Department representative briefly described progress to date, and explained that the current draft almost exclusively reflects the views of tribal groups, Secretary Babbitt and

others quickly responded that it is far too vague, lengthy, and does not focus on achieving and measuring improvements in educational quality, performance, and preparedness of students. When the draft is improved upon, we will provide it to Mac Reed.

COMMONWEALTH OF THE NORTHERN MARIANA ISLANDS (CNMI) REPORT TO CONGRESS -- On 7/18, OMB (NRD, TCJS, HRD, IAD) finished review of DOIs interagency report to Congress recommending the Federal immigration, labor, and minimum wage policies and laws be extended to the Commonwealth of the Northern Mariana Islands. The CNMI Covenant granted United States citizenship, but did not extend all immigration, naturalization and minimum wage laws to the Commonwealth. On May 30, 1997, the President wrote CNMIs Governor expressing his concern over CNMIs labor, immigration and law enforcement practices. Recently, CNMIs immigration and labor practices have been the subject of critical articles in the Readers Digest, Washington Times, and other publications. Sen. Murkowski, Chairman of the Committee on Energy and Natural Resources wrote Secretary Babbitt, on 7/16, asking for the CNMI report, and requesting a drafting service to implement the recommendation in the CNMI report by 7/31. The Senator plans to introduce legislation prior to the August recess.

MINERALS MANAGEMENT SERVICE (MMS) MISC. FINAL RULES -- NRDs Interior Branch cleared off to OIRA three non-controversial Minerals Management Service's proposed rules: 1) Pipeline Right-of-Way Applications and Assignment Fees and Requirements for Filing of Transfers -- revises current fees to capture full processing cost as required by law; 2) To Amend the Regulations Governing Safety and Pollution Prevention Equipment Quality Assurance -- industry to use MMS certified equipment in new wells and when old equipment is replaced, or requires major repair; and 3) Civil Penalty -- revise current penalty fee as required by law.

Energy and Science Division
Weekly Report
July 14 - 18, 1997

Energy Branch

Vice Presidents PNGV Symposium and Diesel Announcement. (Randy Steer)
Presidents Council of Advisors on Science and Technology (PCAST) Energy R&D Briefing. (Randy Steer and John Pfeiffer)
Sale of German Strategic Crude Oil Stocks. (Lori Krauss)
Science and Space Programs Branch
House Recommends Funding NASA at \$148 Million above its Request. (Dave Radzanowski)
House Recommends Funding NSF at \$119.8 Million above its Request. (Dave Radzanowski)
Senate Appropriations Recommends Funding NASA at its Request Level. (Dave Radzanowski)
Senate Appropriations Recommends Funding NSF at \$10 Million above its Request. (Dave Radzanowski.)
Senate Appropriations Recommends Funding OSTP at its Request Level. (Dave Radzanowski)

Water and Power Branch

Talk of Rate Hikes at TVA. (Jim Mietus)
Alaska Power Administration Oil Leak. (Bill Palmer)
Majority of States Approve Nationwide Permit 26. (Cheree Desimone)

Energy Branch

Vice Presidents PNGV Symposium and Diesel Announcement. (Randy Steer)

The Vice Presidents semiannual symposium of the Partnership for a New Generation of Vehicles (PNGV) will occur on Tuesday and Wednesday, July 22-23. The focus will be on direct-injection diesel engines, particularly emissions-reduction technologies for diesels. The VP will be speaking at the opening of the Wednesday morning session. He will be tying PNGV more closely than in the past to our Climate Change response and will also be announcing a refocusing and redirection of some funding, with perhaps a small net increase (\$3 million or so) to address emissions problems in diesel engines -- primarily NOx and particulates. We are trying to keep the VP's announcement as general as possible in terms of funding, but there may be talking-points or Q&A responses that refer to a combined Federal/industry program of about \$30-35 million.

Diesels have two relevancies to PNGV and Climate Change. In the near term, it may be possible to put 5-6 liter diesel engines downsized from advanced truck engines into pickup trucks and sport-utility vehicles. This would give those vehicles about a 40 percent increase in mpg over their gasoline-powered equivalents. In a slightly longer time-frame, a small diesel engine -- maybe 1.5 liters -- is expected to be the primary powerplant (augmented by batteries) in the first generation of PNGV hybrid vehicles, with triple the fuel economy of conventional cars.

The PNGV technical team identified a program of activities for which they initially requested \$29 million between DOE and EPA. That amount was predicated on an estimated 90/10 Federal/industry cost-sharing arrangement, which we have told the agencies is unacceptable. Small diesel engines are seen as a nearer-term alternative to fuel-cells as the primary power source in hybrid vehicles, although fuels cells ultimately will be more efficient and less polluting. We (the Feds) are currently paying about 75 percent of the fuel-cell R&D, so OMB has argued that industry should pay about 70 percent of the diesel engine R&D. DOE staff generally agree with that position, although we are having some difficulty getting CEQ and DOC fully behind it.

There may also be some discussion of DOD funding in this area: the Army Tank and Automotive Command near Detroit is funding work on dimethyl ether (DME), an alternative fuel that has very low pollutant emissions and has better diesel performance than even the best diesel fuel commercially available. (DME can be synthesized fairly easily from natural gas or methanol.)

Presidents Council of Advisors on Science and Technology (PCAST) Energy R&D Briefing.
(Randy Steer and John Pfeiffer)

On July 17, Harvard Professor John Holdren, who chairs the PCAST task force on energy R&D, confidentially briefed a small number of EXOP staff on the panels interim conclusions. There were no revolutionary concepts or proposals -- just recommendations for marginal change. Holdren placed great stress on how much applied energy R&D spending has dropped in real terms since the 1970s. (When DOE officials made this point in earlier meetings, other panelists observed that the big 1970s energy budgets often supported large-scale demonstrations that were not ready technologically or economically. Holdren did not address that issue.)

The task force believes that DOE should manage its R&D programs like a portfolio, trading off different areas of technology and that the appropriate government role is to focus on break-through-oriented projects, leaving incremental advances mostly up to industry. Climate change should be a real driver for applied R&D, along with import dependence in the oil markets. (The issue for the task force is as much balance-of-trade as it is regional

instability.)

Progress in individual technology areas is incomplete, so specific recommendations are spotty and do not yet tie into a cohesive philosophy. Tentative conclusions:

*Increase solar and renewable energy R&D, particularly photovoltaics (PV) and biomass.

*Focus nuclear R&D on finding technical solutions to the major public concerns about nuclear energy, so that it may be an option if needed as a climate-change response.

*Generally maintain the current balance fossil R&D activities. Interestingly, they believe one technology should have the plug pulled (after 15 years!) -- direct liquefaction of coal.

Holdren presented no other programmatic recommendations. It is not clear if the task force will have specific climate-change recommendations, for example, but Holdren's personal view is that some price signals are needed --- either a carbon tax or an equivalent "cap-and-trade" system.

Sale of German Strategic Crude Oil Stocks. (Lori Krauss)

Germany announced this spring that they were going to sell off a portion of their strategic petroleum stocks, in order to reduce their budget deficit. Germany has three types of strategic petroleum stocks: government owned and controlled crude oil stocks (50 million barrels); government-controlled, privately-owned refined and crude stocks (178 million barrels); commercially-held stocks. Government-owned and controlled crude oil stocks provide the highest level of strategic protection. Germany is planning to sell their government-owned and controlled crude stocks over the next three years. They intend to sell off \$230 million worth of crude oil this year, and the remaining \$1 billion worth of crude oil over the following two years. Germany will meet its International Energy Agency (IEA) obligation to hold petroleum stocks equal to ninety days of net petroleum imports with their government controlled, privately owned stocks. The IEA has condemned the German sale.

Science and Space Programs Branch

House Recommends Funding NASA at \$148 Million above its Request. (Dave Radzanowski)

On July 16, the House passed the FY1998 VA/HUD/IA appropriations bill. This bill recommends funding NASA at \$13.648 billion, \$148 million above the request. No changes were made to the NASA funding levels recommended by the House Appropriations Committee. During floor debate, an amendment by Rep. Sensenbrenner to reduce NASA's Human Space Flight account by \$100 million for Russian Program Assurance was defeated 200-227. Rep. Sensenbrenner also entered into a colloquy with Chairman Lewis on report language that would require NASA to get approval from both the Appropriations Committee and the House Science Committee before it can transfer \$150 million from other accounts to the Human Space Flight account for the Space Station. Chairman Lewis indicated that he would fight for such report language in conference.

House Recommends Funding NSF at \$119.8 Million above its Request. (Dave Radzanowski)

On July 16, the House passed the FY1998 VA/HUD/IA appropriations bill. This bill recommends funding NSF at \$3.487 billion, \$119.8 million above the request. Only one minor change was made to the NSF funding levels recommended by the House Appropriations Committee. During floor debate, an amendment by Rep. Lewis to reduce NSF's Research and

Related Activities account by \$174,000 was agreed to by voice vote. This reduction is in response to a grant (the Candidate Emergency Study), awarded by NSF, that would conduct research to identify the "best qualified" candidates for Congress and understand why they do not run for office.

Senate Appropriations Recommends Funding NASA at its Request Level. (Dave Radzanowski)

On July 17, the Senate Appropriations Committee recommended funding NASA at its request level of \$13.5 billion. This is \$148 million below the House recommendation. The Committee is recommending no reductions from any of NASAs programs; however, no funds are provided for Russian Program Assurance. The Committee also did not provide transfer authority to reallocate funds to the Human Space Flight account for the International Space Station, if necessary. The House has recommended \$100 million for Russian Program Assurance and up to \$150 million in transfer authority. The Committee did recommend some augmentations to NASAs request, including +\$6 million for solar terrestrial probes, +\$10 million for optical astronomy testbeds, +\$5 million for a lightning mapper sensor, and +\$5 million for the Bantam flight demonstrator. NASA would have to find offsets within its budget to fund those additions. Report language also requests NASA to report on its contingencies for the Space Station. Senate floor consideration of the bill is scheduled for July 21.

Senate Appropriations Recommends Funding NSF at \$10 Million above its Request. (Dave Radzanowski.)

On July 17, the Senate Appropriations Committee recommended funding NSF at \$3.377 billion, \$10 million above its request. This is \$110 million below the level recommended by the House. The \$10 million increase is for NSF's Research and Related Activities account. Within that account, the Committee has included bill and report language for a \$40 million plant genome initiative to be supported consistent with NSF's competitive, merit-based procedures. The Committee also included bill and report language delaying the availability of some of the funds for the Knowledge and Distributed Intelligence and the Life and Earth's Environment initiatives until a report is submitted that outlines appropriate "milestones and benchmarks." In the Major Research Equipment account, the Committee is recommending the request level of \$25 million for South Pole Station. The House has recommended an additional \$90 million in up-front funding for the rehabilitation of South Pole Station. The Committee also is recommending the request level of \$25 million for the Polar Cap Observatory; however, report language directs NSF to build the facility in Alaska at an existing DOD site instead of in Resolute Bay, Canada. Senate floor consideration of the bill is scheduled for July 21.

Senate Appropriations Recommends Funding OSTP at its Request Level. (Dave Radzanowski)

On July 17, the Senate Appropriations Committee recommended funding OSTP at its request level of \$4.932 million.

Water and Power Branch

Talk of Rate Hikes at TVA. (Jim Mietus)

News accounts in Knoxville and Chattanooga speculate about possible rate increases in the next several months at TVA. The agency has some of the lowest rates in the country and

takes pride in the fact it has not raised rates in ten years. But there are an increase might now be warranted: (1) large nuclear power plants representing billions in costs have been built but not yet put in the agency's rate base; (2) new federal clean air standards are expected to require coal-burning power plants to install smokestack scrubbers, which TVA estimates would cost up to \$3 billion; and (3) Congress this year may require TVA to have its power program pay for water management and other activities that in the past have been paid for by appropriations. The cartoon above refers to the fact that the TVA Board of Directors will consider a rate hike of five to ten percent at its July 23rd meeting in Knoxville. TVA has also recently decided to sell its auto fleet and rely instead on renting cars from an agency with a car pick-up spot that is several blocks from TVA headquarters.

Alaska Power Administration Oil Leak. (Bill Palmer)

Several weeks ago the Alaska Power Administration was notified that it might have an oil leak in one of three submarine transmission cables that connect the Snettisham generating plant with the City of Juneau. Weather conditions and other factors prevented several dive attempts; however, this week, divers finally located a hole in the line casing at a depth of 239 feet. According to the dive team, the break was caused by an anchor that snagged on the cable. At this point, it is not known how, why or who dropped the anchor. The cable break can be repaired to contain the oil permanently (the amount of oil that leaked was insufficient to cause an environmental problem), but the line must be shut down and replaced. The APA, which is in the final stages of a sale to its customers, will probably need to pay for the replacement. The \$2.5 million replacement cost has been included in the FY 1998 APA budget by the Senate Energy and Water Appropriations Subcommittee. The House mark does not include the funds for this replacement.

Majority of States Approve Nationwide Permit 26. (Cheree Desimone)

In December 1996, the Army Corps of Engineers released a revised version of Nationwide Permit (NWP) 26 that reduced the threshold from 10 acres to 3 acres for when a permit is required to allow discharge of dredge or fill material in isolated or headwaters wetlands. Each state has the authority under the Clean Water Act to certify whether a Nationwide Permit can be used on wetlands within its boundaries. Only 27 states approved use of the old NWP 26 (10-acre threshold). Thirty-five States have now approved the use of the revised NWP 26 (3-acre threshold). The Corps is pleased with this result and is working to further increase the number of state certifications.

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August 26, 1998

SAFE SCHOOLS AND COMMUNITIES EVENT

DATE: August 27, 1998

LOCATION: Mechanics Hall

EVENT TIME: 10:45 am - 12:00 pm

FROM: Bruce Reed/Elena Kagan

I. PURPOSE

To highlight the importance of safe schools and effective law enforcement by announcing:

- (1) the release of the Early Warning Guide for teachers and principals to help identify and respond to the early warning signs of troubled youth that can lead to school violence; and
- (2) the release of \$30 million in Police Corps funds for states to provide college scholarships to aspiring law enforcement officers in return for a commitment of service.

II. BACKGROUND

Early Warning Guide

In response to the tragic school shooting at Thurston High School in Springfield, Oregon, you directed Secretary Riley and the Attorney General in your June 13 radio address to develop a guide to help teachers, principals, and parents identify and respond to the early warning signs of troubled youth that can lead to school violence. You will announce the release of the Early Warning Guide by the Departments of Education and Justice at tomorrow's event. The guide will be posted on the Education Department Website tomorrow, and sent to every school in the country on September 1.

The Departments worked extensively with school psychologists, teachers, principals, parents, law enforcement, and youth in developing and reviewing the guide. They also consulted with school districts such as Jonesboro that recently have been confronted with school violence. The guide, based on research and experience in schools around the country, gives schools and communities information on how to:

- (1) Identify the early warning signs that relate to violence and other behaviors, including a list of specific signs to look for in troubled youth, such as: uncontrolled anger; patterns of impulsive and chronic hitting, intimidating, and bullying; detailed and specific threats to use violence; gang affiliations; feelings of persecution; and past history of violent and aggressive behaviors such as cruelty to animals or fire setting. Trained staff can use these early warning signs, together with knowledge about students and their circumstances, to determine when to seek help for individual students in order to prevent violence.

- (2) Take action steps to prevent and respond to school violence. The guide instructs schools on how to develop a violence prevention plan -- including ways to get help for

troubled children -- and form a school-based team to oversee the plans implementation. The guide also provides a crisis procedure checklist for schools to use if violence occurs. Finally, the guide lists actions students can take -- such as listening to troubled friends, involving trusted adults, and asking law enforcement to conduct school safety audits -- to help create safer schools.

Also tomorrow, the Vice President and Mrs. Gore will hold a listening session on school safety in San Francisco. Their session at Lincoln High School will include parents, local law enforcement, and community leaders and will help to prepare for the upcoming White House Conference on School Safety this October 15th.

Police Corps

You will announce the release of \$30 million for 23 states to participate in the Police Corps program created in the 1994 Crime Act. As you know, the Police Corps program encourages young people to become law enforcement officers by providing college scholarships of up to \$7,500 per year for four years to students who agree to serve on a state or local police force for an equal length of time. The Police Corps also provides policing agencies \$10,000 per participant for each year of required service.

Six new states, including Massachusetts, will begin to participate in Police Corps as of today, bringing the total number of states to 23. The states participating in the Police Corps are: AR, CO, CN, FL, GA, IN, IL, KY, MA, MD, MI, MS, MO, NV, NM, NC, OH, OR, OK, SC, TX, UT, WA and the Virgin Islands. These states together will provide scholarships to over 1,000 students.

III. PARTICIPANTS

Mayor Raymond Moriano
Senator Edward Kennedy
Representative James McGovern
Massachusetts Attorney General Scott Harshbarger
Police Chief Edward Gardella
Officer Michael Jones, Baltimore Police Department, Police Corps graduate
Kathleen Bisson, teacher, Burncoat Middle School

IV. PRESS PLAN

Open Press.

V. SEQUENCE OF EVENTS

- YOU will be announced onto the stage accompanied by Mayor Moriano, Representative James McGovern, Police Chief Edward Gardella, Attorney General Scott Harshbarger, Officer Michael Jones, Senator Edward Kennedy, and Kathleen Bisson.
- Mayor Raymond Moriano will make opening remarks and introduce Attorney General Scott Harshbarger
- Attorney General Scott Harshbarger will make remarks and introduce Police Chief Edward Gardella.
- Police Chief Edward Gardella will make remarks and introduce Representative James McGovern.
- Representative James McGovern will make remarks and introduce Officer Michael Jones.

- Officer Michael Jones will make remarks and introduce Senator Kennedy
- Senator Kennedy will make remarks and introduce Kathleen Bisson.
- Kathleen Bisson will make remarks and introduce YOU.
- YOU will make remarks.
- YOU will complete your remarks at the podium, work a ropeline, and then depart.

VI.REMARKS

Provided by Speechwriting.

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December 24, 1998

MEMORANDUM TO THE PRESIDENT

FROM: Jacob J. Lew

SUBJECT: FY 2000 Budget Wrap-up

Over the last two weeks, we have met with you to review FY 2000 funding levels for base programs and new initiatives. This memorandum describes our recommendations to settle agency appeals and seeks your final decision on the remaining funding issues.

In order to resolve final issues, we reserved \$789 million which is now available to be allocated. In addition, we recommend a revised tobacco policy that would make an additional \$600 million available. We have worked closely with DPC, NEC, and NSC on these final issues. John Podesta, Ron Klain, and I have reviewed the issues and would recommend the following allocation (in millions of dollars):

Total Additional Resources Available
1,389

Recommended Allocation:

State Appeal
.....
100

Education Appeal
.....
200

HHS Appeal
.....
225

NIH Increase
.....
279

Initiatives:

Lands and Livability (increased to \$1 billion total)
100

EPA Clean Air Initiative
.....

200

NSF Digital Library

10

Manufacturing Assistance

55

Member Requests

220

Total Allocation Recommended

1,389

Remaining

Resources

0

Presidential Appeals

Below is a brief summary of the four pending appeals and our recommendations to resolve them:

*State Department/International Affairs. The State Department originally appealed for \$ 4.2 billion to fund new embassy construction, follow-on costs of security upgrades made with FY 1999 emergency funds, regular agency operations, and a wide range of other programs including more assistance for Asia, Central America, Eastern Europe and the New Independent States. State is currently appealing for the \$2 billion difference from the OMB proposed "final settlement," which included an increase of: \$3 billion for outyear advanced appropriation funding of construction (a total increase of \$1.65 billion in FY 2004 and 2005), \$25 million for embassy construction in FY 2000, \$100 million for Russian threat reduction, and \$40 million for State/OMB to allocate among policy priorities.

In response to OMBS settlement offer, State has requested more funding for the UN Development Program (+\$45 million), Bosnia/Kosovo (+\$44 million), NATO/Foreign Military Financing (+\$20 million), Asia (+\$50 million), counterterrorism (+\$10 million), and UN arrears (+\$37 million). In addition, State has requested permission to move \$50 million from embassy construction to State operations (which has already received a 13 percent increase). This would have the effect of driving up the outyear costs of a freeze (and therefore the size of the contingency reserve) because the \$50 million in FY 2000 construction does not require outyear funding levels. While ordinarily we would defer to State on this internal allocation of resources, we recommend leaving the funding in construction given the importance of embassy security and the outyear implications.

Recommendation: Of States appeal for \$4.2 billion, we have already provided \$602 million and we recommend that an additional \$100 million be made available to State. This would bring the State/International Affairs budget to \$21.5 billion which is \$1.5 billion over the 1999 enacted without emergency funding. We will allocate \$40 million to increase Russian threat reduction funding and will work with Sandy Berger and State to allocate the

remaining funds.

OMB recommendation _____ Additional Resources _____ Lets discuss _____

*Education. Secretary Riley has appealed for \$3.4 billion. Prior to their appeal, we offered Education an additional \$1.2 billion. Funding increases include a new emphasis on accountability for results in elementary and secondary programs, resources to help end social promotion, investments in computer centers in low-income communities, and significant expansions for adult literacy and programs for Hispanics. The recommended level also makes progress toward reaching Administration goals stated in past budgets to provide federal work study opportunities to one million college students, reduce class size (\$1.3 billion for the second year of funding), and invest \$2 billion in education technology by 2001. It could also finance an increase to the amount of the Pell grant maximum award by \$125 to \$3,250.

Recommendation: Of Educations appeal of \$3.4 billion, we have already provided \$1.2 billion. We recommend an additional \$200 million be made available to settle final issues with Education. This would permit additional increases both to base programs that Secretary Riley is concerned about and initiatives being developed by the policy councils. If we need additional resources for other priorities, this level could be reduced by \$25 million.

OMB recommendation _____ Additional Resources _____ Lets discuss _____

*Health and Human Services. Secretary Shalala has appealed for \$3.3 billion over the OMB passback. Our most recent offer provides \$1 billion or 6% over program levels for 1999. The funded level allows for significant increases in many operating divisions, and a reasonable level of funding for initiatives including long term care, bio-terrorism, mental health, and many other areas. We have also directed \$3.6 billion in outyear tobacco revenues to fund mandatory initiatives in HHS, including \$1 billion for the Secretarys public health initiative, an outreach program for uninsured Americans.

Tobacco. Secretary Shalala has appealed strongly to budget some Medicaid recoupment proceeds in FY 2000. Bruce Reed, Elena Kagan, Bruce Lindsey, Ron Klain, and I all agree that the current policy, which budgets full recoupment in 2001 and beyond, combined with aggressive enforcement action immediately, permits us to gain maximum leverage to proceed with our tobacco effort. We can generate additional revenues without forcing the difficult technical and political issues associated with allocating recoupment money in the FY 2000 budget by providing an additional 5 cent excise to the 50 cents we have been carrying. This would mean that our policy would be one half of the \$1.10 proposed last year and could also be described as last years policy adjusted to reflect the State settlement.

We originally recommended a \$49 million increase for the NIH, a level of funding consistent with the path we established in the 1999 budget, but dramatically less than expectations created by the \$858 million increase granted by the Congress last year. Using the revenues generated by the 5 cents added to the tobacco tax proposal, we would propose to provide an additional \$279 million for NIH which would keep NIH at the FY 1999 enacted level plus inflation.

Other HHS issues. We have also reserved \$225 million to settle other remaining issues with

HHS. This would permit additional funding for SAMHSA that would bring the prevention funding closer to the ONDCP recommended level and other HHS priorities. Given the proposed NIH increase, we would be able to reduce this amount by \$50 million if necessary to permit additional resources to be provided elsewhere.

Recommendation: Of HHS appeal for \$3.3 billion, we have already provided \$1 billion. We recommend that an additional \$279 million be provided for NIH and \$225 million be provided to address other HHS programs.

OMB recommendation _____ Additional Resources _____ Lets discuss _____

*Veterans Affairs. VA appealed for an additional \$1.4 billion in budget authority, but would accept a settlement offer that would fund overall programs below the 1999 appropriated levels but above the total program level of the 1999 appropriation plus revenue. While this funding level is below the FY 1999 appropriation for VA as a whole, the appropriated level for VA Medical would be at the 1999 enacted level. Together with collections from third party payors, VA would have a total program level above FY 1999.

The proposed settlement level would permit new initiatives in Hepatitis C and emergency care, and would permit carefully constructed, time-limited expansion of coverage to low-priority veterans, which is Secretary West's priority. The settlement level of \$278 million would be \$74 million below the upper bound we discussed last week, which would freeze VAs 1999 appropriated topline. VAs aggressive defense of the lower funding level would have a positive effect by focusing attention on the substantial benefit to Veterans of the revenue retention policy we agreed to two years ago, however it would also raise political risks. If you are concerned about the political implications of a decline in the appropriated level for VA, we would need to take the additional \$75 million increase from somewhere else.

Recommendation: Of VAs appeal for \$1.4 billion, we have already provided \$278 million. We recommend that no additional resources be allocated to VA.

OMB recommendation _____ Additional Resources _____ Lets discuss _____

Problems Fixed

Research Funding. OSTP had previously expressed concerns to you that the research and development (R&D) budget for FY 2000 was the lowest since you took office and that you would be loudly criticized by the research community. For your information, we have attached a table detailing the tentative agency R&D levels for FY 2000. In response to your concerns, we have recommended a \$328 million, or 2.1 percent, increase for NIH. Together with other final decisions, this brings the total research funding increase to 2.5 percent, which is .4 percent above the inflation rate.

Drug Funding. ONDCP expressed concerns that OMB's proposed drug control budget would be the lowest since ONDCP was created. The pending settlements with HHS, Education, and other agencies will increase the 2000 estimate by about another \$100 million, yielding a final FY 2000 drug funding request of about \$17.3 billion, an increase of 1-2 percent over the

non-emergency 1999 funding levels. ONDCPs proposal to fund at last years total appropriated level would in effect carry forward the one-time funding for capital, e.g. boats and aircraft.

We have reserved an additional \$78 million for SAMHSA that would bring the prevention funding closer to the ONDCP recommended level. This is ONDCPs top priority. The Education settlement also includes \$25 million for Safe and Drug Free Schools. Additionally, the heads of State, Customs, and Coast Guards have confirmed that they have adequate funding to continue operation of assets funded in the FY 1999 emergency supplemental.

Other Policy Changes

In our review of potential initiatives, we have been able to fund everything on the attached list, including the EPA clean air revolving fund to help clean-up polluting facilities. This would also have the effect of increasing the EPA topline. Even though the topline continues to decline because of scheduled reductions in State Revolving Fund (SRF) capitalization, all of EPA apart from the SRFs would increase.

The Vice-President has also advocated an increase in funding for Russian threat reduction, which with the recommendations in this memo would be at \$940 million, an increase of \$340 million from the base level.

Member Requests

The only remaining funding that are not allocated in the recommendation is \$220 million which we are reserving to address the many requests that Larry Stein, John Podesta, and I have received from Members. This will permit a carefully selected number of member requests to be funded.

MEMORANDUM

TO: SALLY KATZEN

FROM: ANNE LEWIS

RE: STATUS OF MY ISSUES

DATE: MARCH 18

The two major issues which I was handling -- job training/skill shortages and child labor have been completely handed off to my successors, Ceci and Sarah respectively. Below is a discussion of the status of my minor issues: Comp time, FMLA, & the TEAM Act.

Comp Time:

In June 1996 the President unveiled a comp time proposal. This measure, though drafted with much private assistance from the labor movement, was not popular with Congressional Dems and was essentially opposed by labor. We created a proactive presidential initiative because we became convinced that the best defense was a good offense.

In early 1997 with the intention of putting the President on the defensive and dividing Congressional Democrats, Republicans made comp time a significant focus of their legislative agenda. In May, House Republicans passed their version of the legislation, authored by Cass Ballenger, which we threatened to veto. In an effort to prevent an overwhelming vote in favor of the Republican bill, Congressman George Miller offered a democratic alternative which was very similar to the Presidents proposal. In spite of the fact that labor was not supporting the Miller alternative and that it was not being sold as the Presidents bill, Miller got close to 200 votes.

By June of 97, the action moved to the Senate. The lead Senate sponsor of comp time legislation was (and still is) Senator Ashcroft. The Ashcroft bill was significantly more extreme than the House bill. Simply put, Ashcroft does away with the 40 hour work week which establishes the bedrock principle that although an employer may demand unlimited overtime, he must pay time and a half for every hour beyond 40. In spite of the extreme nature of his bill, Senator Ashcroft generated some significant positive media coverage for

his proposal and the Democrats in the (ever moderate) Senate became very nervous about the prospect of opposing it, although most opposed the substantive provisions of the bill. Over the initial strong objections of the Kennedy and the labor movement, we persuaded the Dems that we needed a moderate coalition of Dems to offer the Presidents proposal as an alternative to give Democrats something to vote for. The liberals in the caucus viewed this as an alternative only for cover, the moderates and the administration, viewed this as an alternative to strengthen our hand and force Ashcroft to the table for a negotiated settlement. However, in spite of the fact that the Dems successfully filibustered two Ashcroft votes, Ashcroft refused to negotiate seriously and Lott elected not to roll him. This issue was then, and continues to be, stalled.

The players at the White House are: John Podesta, Karen Tramontano and Elena Kagan. At DOL, Seth Harris is the lead on substance and Geri Palast is the lead on Congressional. Many months ago, Larry Summers expressed an interest in participating in this issue, should it heat up again.

Attached are several documents which lay out the substance of our position and the disagreements with Senator Ashcroft and the House Republicans.

The TEAM Act

Although the President has vetoed the TEAM Act in the past, last year the Republicans kept threatening to bring it up again. The issue gained some steam when Senator Bingaman began quietly seeking support for an amendment. Although we did not take a public position on the Bingaman amendment, privately we opposed it. The issue never gained any significant steam and I doubt that it will this year. Nevertheless, as you know, the TEAM is religion for the labor movement. IF the TEAM Act or anything like it were to pass, organized labor as we know would cease to exist.

The key players at the White House are: John Podesta & Karen Tramontano. At DOL, Geri Palast and Seth Harris are the leads.

FMLA

There are currently two Presidential initiatives on Family and Medical Leave pending. The first is the Presidents proposal to add an additional 24 hours of leave annually to allow parents to attend parent/teacher conferences and to allow children time for routine elements of elder care: taking their parents to the doctor, looking for nursing homes etc. While this legislation was part of the Senate Democrats comp time alternative, it is not very popular in the Caucus. The moderates think its too heavy a lift politically, and the liberals think it is too small a benefit to be worth fighting for.

The second Presidential initiative is his recent call to add 10 million people to the FMLA. We have commissioned DOL to develop some intellectual property on this issue, but there has been no action since the speech and there is no plan to take action.

The other players here on this issue are: Jen Klein and Nicole Rabner. At DOL, Jon Fraser is the lead. On the hill, Dodd is the leading advocate for lowering the threshold and Patty Murray has introduced legislation to expand FMLA to include part of the Presidents 24 hours proposal. Among the advocates, Donna Lenhoff is the most helpful.

Attachments: June 24, 1996 Announcement of Comp Time & FMLA proposals
Veto Letters to Goodling & Jeffords on Ballenger Comp Time bill

DLC & Democratic Policy Committee paper on Comp time
POTUS Radio Address of Mar 23, 1996 on Comp Time
POTUS memo on differences between his & Republican proposals
Key press clips on comp time (including NY Times editorial)
Short memo to Gene on Bingaman Amendment to TEAM Act
Background paper on TEAM Act & section 8(a)2 on the NLRA

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

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August 14, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

RE: DPC Weekly Report

Tobacco -- Counteradvertising Event: We are planning a tobacco event for September where you will announce a new national effort to promote tobacco counter-advertising. At the event, you will direct HHS to: (1) designate the CDCs Media Campaign Resource Center as a National Clearinghouse on Tobacco Counter-advertising; (2) collect and disseminate a package of the "top-10" advertisements for preventing youth smoking, and make these available to states and organizations for television placement free of charge; (3) work with the Department of Education to make effective anti-tobacco curriculum available to every school; and (4) conduct research on what media interventions are most effective for preventing youth smoking. While some advocates are concerned that any effort on our part to launch a counter-advertising campaign will take the heat off of the House to pass comprehensive legislation, we believe that we need to take whatever action we can through executive action in order to reduce youth smoking.

At the event, you could also call on the entertainment industry to take a leadership role in reducing youth smoking, by urging actors to serve as role models and speak out against youth smoking, writers and directors to eliminate smoking from movies and television programming, and broadcasters to air public service announcements targeting youth smoking. (In 1996, 77 percent of all major motion pictures portrayed the use of tobacco. In most of these movies, the lead actor or actress smoked.) We could invite supermodel Kristy Turlington and musical group "Boyz II Men" to participate in the event, both of whom have already demonstrated their commitment to this effort by making public service announcements targeting youth smoking that are available through the CDC.

Crime -- Probation/Parole Study: On Sunday, the Justice Department will release a survey of the nation's probation and parole population in 1997. Key findings include: (1) Total number -- A record 3.9 million adults were on probation or parole in 1997, though the 2.9% increase from 1996 was consistent with the average annual increase of 3.0% since 1990; (2) Probation -- Of the 3.26 million probationers, 54% were convicted felons, 28% were misdemeanants, and 14% drunk or impaired drivers; (3) Parole -- Of the 685,000 adults on parole, nearly all (96%) had been convicted of a felony; and (4) State Trends -- CA (408,900) and TX (538,500) had the most probationers and parolees, and NV, ME, NH and AZ had a more than 10% increase in their probation population. Nine states reported more than 10% increases in their parole populations.

Crime -- COPS/Police Corps: We are preparing a possible event for you the week of August 23, where you would announce the release of funds to hire and educate law enforcement through the COPS Program. You could make the following three-part announcement: (1) Police Corps -- \$30 million in state awards under the Police Corps program -- including \$14.3 million for scholarships to 330 new students, and 6 new participating states (CO, FL, IL,

MA, OK, UT and the Virgin Islands); (2) COPS Small Community Grants -- Approximately \$10 million to help 855 small and rural law enforcement agencies (serving populations under 50,000) defray the costs of retaining current COPS-funded officers; and (3) COPS Universal Hiring -- \$74.8 million to hire over 1,000 community police officers in 237 jurisdictions, including 12 school resource officers for Jonesboro, AR.

Crime -- Early Warning Guide: For your August 22nd radio address, we are working to finalize the Early Warning Guide to school violence that you recently directed Secretary Riley and the Attorney General to develop. The guide will be a user-friendly document with practical suggestions to help principals, teachers, and parents identify what types of early signs to look for before youths become violent; how to properly intervene once troubled youth have been identified; and how to respond to crisis once violence occurs. The guide will be posted on the Web the day of the radio address, and 250,000 will be mailed out to schools and communities before the start of the school year.

Crime -- Brady Law Statistic: We thought we should clarify a statistic on the effectiveness of the Brady Law that you referred to in California. Background checks have stopped nearly a quarter of a million (or 242,000) prohibited handgun purchases since the Brady Law took effect in February of 1994. And last year, about 62 percent of the 69,000 rejections that occurred were based on felony convictions or indictments. Thus, about 42,780 felons -- or an estimated 18 per day -- were stopped from purchasing handguns in 1997.

Drunk Driving -- Record Low in 1997: On Friday, the Transportation Department announced that, in 1997, the rate and number of alcohol-related fatalities dropped to their lowest levels since the Transportation Department began record-keeping in 1975. Last year, the rate of alcohol-related crashes fell from nearly 41% in 1996 to 38.6% in 1997 -- the first time that the rate dropped below 40% -- and the fewest number of alcohol-related fatalities. Since 1982, the number of alcohol-related fatalities has dropped by more than a third. The 1997 Transportation data also shows that alcohol-related deaths among 16 to 20 year-olds dropped 5%. The data is from DOT's Fatality Analysis Reporting System (FARS), which documents all traffic-related fatalities in the 50 states and D.C. There was a very small decline in the overall number of traffic-related fatalities, from 42,065 in 1996 to 41,967 in 1997. Sixty-three percent of those killed on the highways were not wearing seat belts.

Health Care -- Physical Fitness Council: Late last week, Secretary Shalala requested that we initiate a DPC policy process to review the feasibility and advisability of administratively or legislatively turning over the administrative responsibilities of the Presidents Council on Physical Fitness and Sports to the United States Olympic Committee (USOC). The Secretary believes that the chronic underfunding of the Council inhibits its ability to adequately promote its physical fitness message, particularly to children. Senator Stevens of the Appropriations Committee agrees that significant enhancement of funding is unlikely in the future and therefore also supports this concept, as long as current board appointment authority is retained for the Administration and Congress. We agree that the Council is falling short on its mission and believe that this proposal merits serious consideration. The counsels office believes that it will take legislation to retain your appointment authority while giving administrative responsibilities to the USOC. We will submit options for your consideration after we hold meetings on this issue.

Health Care -- Patients Bill of Rights Update: This week, Sen. Lott sent you a letter raising concerns about your veto message in Kentucky and requested that you reiterate your commitment to work with Republicans and Democrats to pass a patients bill of rights this year. He also requested that you urge Sen. Daschle to agree to limit debate and amendments on this legislation. He is taking the position that the only reason he has not brought this bill up is because he has been unable to get agreement from Senate Democrats. We believe this letter presents a good opportunity to reiterate your concerns about the serious shortcomings in the Republican Leadership bills, while stating your continued commitment to working with the Senate to pass a strong bipartisan bill. We are drafting a letter in response that reiterates your specific policy concerns with their proposal that you outlined at your event in Kentucky. The letter also expresses your disappointment with the fact that the Senate Republican bill was conceived and developed through a purely partisan process, without any hearings or committee votes, and with no consultation with hill Democrats or the White House. The letter will also underscore that while you will work with Republicans and Democrats to pass a bill this year, it needs to be strong legislation that gives patients the protections they need. We plan to release the letter sometime next week.

Welfare Reform -- New Caseload Numbers and Study to Mark Anniversary: At our suggestion, HHS will release new welfare caseload numbers on Friday to coincide with the two-year anniversary of the welfare reform law on August 22nd. We do not have the numbers yet (HHS is still collecting them as we write this memo) but if trends continue the three additional months of data (April-June 1998) should show reductions of several hundred million from the 8.9 million level you announced in May. HHS will also announce \$1.6 million in technical assistance grants to help states promote job retention and advancement.

On August 20th, the Manpower Demonstration Research Corporation will release an encouraging study of welfare reform in Los Angeles, funded in part by HHS. In 1995, Los Angeles shifted to a job-focused welfare program, based largely on the positive results from nearby Riverside county. The early results from Los Angeles are promising: after six months, welfare recipients in the program were 34 percent more likely to be employed and had 46 percent higher earnings. The program reduced welfare costs by just under 10 percent.

The Los Angeles study adds to the multitude of evidence contained in the new TANF report to Congress which shows welfare reform is working. The report shows that two years after the signing, no race to the bottom has materialized -- nine states have increased benefits, only eight have cut benefits. Almost every state requires personal responsibility contracts and most states have adopted a work-first model, with 32 states expecting clients to work within six months. For the first time, half of all low-income single mothers with children under six -- the population most affected by welfare policy -- are working, a dramatic increase from 35% in 1992. State evaluations of welfare programs show employment increases of 8 to 15 percentage points. So far, welfare changes do not appear to have put nearly as much pressure on the foster care system as some critics feared. For example, a Maryland study found that less than 1 percent of families leaving welfare placed a child in foster care, and most of those families had already been under investigation for abuse or neglect.

Food Safety -- Food Safety Council: We expect the National Academy of Sciences to release next week a highly anticipated report recommending that the governments food safety structure be much better coordinated and that resources be more evenly allocated between FDA and USDA. DPC staff will attend a briefing by the NAS on Tuesday regarding the

contents of the report. We have been working with the agencies and NPR to prepare an appropriate response. All of the agencies agree that we should welcome the report, study it, and use the opportunity to push for continued progress on food issues. We are preparing an executive order setting up a Food Safety Council which will review the NAS study and report back to you with recommendations for longer-range strategies. The Council would consist of the relevant agencies, HHS, USDA, EPA, OSTP, and Commerce. DPC and the National Partnership for Reinventing Government will also sit on the Council. In addition to preparing a long-term report, the Council would serve as a coordinating body, charged with setting food safety priorities and helping to produce a coordinated food safety budget each year. The agencies are anxious about this approach, fearing it may lead to a single food agency or a diminution of their ability to act unilaterally on budget issues. However, in light of on-going appropriate criticism that the governments food safety efforts are too fragmented, we view the Council as a useful coordinating mechanism that could also set the stage for preparing a thoughtful long-term solution. You could announce the creation of the Council in early September.

Campaign Finance Reform -- Free TV Time Commission: The co-chairs of the Public Interest Advisory Commission on the Public Interest Obligations of Broadcasters in the Digital Age (Moonves-Ornstein Commission), have requested an extension on the deadline for their report which was originally scheduled for October 1. The request is consistent with our internal conclusions that with additional time and a less politically-charged environment, the members of the commission will present a more meaningful set of recommendations. OVP, DPC, OMB, and Commerce will continue to closely monitor the work of the Commission.

Education -- Young Womens Leadership Academy in NYC: The Education Department has been working for the past six months with NYC schools to develop a rationale and evidence to support the continued operation of the Young Womens Leadership Academy. DPC, WH Counsel, and the Education and Justice Departments initially believed that the most promising approach, consistent with prevailing interpretations of Title IX and the Equal Protection clause, would be to find evidence supporting a "remedial" rationale for the school. However, DoEd has concluded that the necessary evidence to support this approach does not exist for this school. Nonetheless, DPC, WH Counsel, Education and Justice Department staff all agree that our policy goal is to allow continued experimentation with single sex schools, and that no enforcement or other steps should be taken to close the school, force it to admit boys, or force NYC to open a boys school. Instead, our goal now is to work cooperatively with the NYC schools to provide evidence that both boys and girls in coed schools are afforded learning opportunities comparable to those in the all girls school, while at the same time continuing to evaluate the effectiveness of the Leadership Academy.

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September 19, 1998

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

RE: DPC Weekly Report

Crime -- Juvenile Crime: This week, the House attached two major House juvenile crime bills passed last year -- H.R. 3, which we oppose, and HR 1818, a prevention bill which we support -- to a noncontroversial Senate bill reauthorizing funds for the Center for Missing and Exploited Children. The bill passed on the suspension calendar by a vote of 280-126. The juvenile crime bills are now items that must be resolved in conference. Senate Democrats are sure to oppose the move to appoint conferees.

Crime -- COPS Grants: This week, the COPS Office released over \$20 million in grants to 27 jurisdictions to hire 331 officers. Next week, the COPS Office will release over \$300 million in grants, including: (1) \$200 million COPS MORE grants to 600 law enforcement agencies to fund 10,000 police and police equivalents; (2) \$100 million under a long-awaited waiver for Los Angeles to fund over 700 new officers; and (3) roughly \$6 million to four other law enforcement agencies in California to hire an additional 82 officers.

Children and Families -- Head Start: On Monday, the House passed a Head Start Reauthorization bill, stripping from the bill objectionable provisions added in Committee (such as vouchers), on the insistence of the Administration and House Democrats. The Senate has already passed a strong Head Start Reauthorization bill, paving the way for a speedy conference, and, we hope, a bill signing ceremony next month in which we can highlight the important achievements in the Head Start program during your Presidency. Both the House and Senate bills reauthorize the program at sums near your request and add important new goals for the program, such as "school readiness." A likely conference debate will be whether additional new investments in Head Start should be targeted to improving quality or serving more children. Our position has been that we must maintain a careful balance between quality and expansion -- continuing to make needed improvements, but also serving more eligible children. While the Senate bill adopts our position, the House bill unfortunately targets most new dollars into quality improvements, such as salary enhancements, thereby precluding reaching our goal of serving 1 million children. We will continue to fight in Conference to achieve a better balance between these two important goals.

Immigration -- H-2AGuestworkers: This past July the Senate passed an amendment to the CJS appropriations bill, sponsored by Senators Wyden and Graham, that would create a new agricultural guestworker (H-2A) program. This bill would severely weaken the labor protections for migrant farmworkers and we have voiced our strong opposition to it. Since the bills passage (68 to 31), it has lost support among Senate Democrats, principally because labor and Hispanic groups have made clear their vehement opposition. Last week, we met with a group of Democratic staffers to discuss our serious substantive concerns with the bills approach. Our goal is to get this amendment stripped from the CJS bill and to do

the real work of forging a consensus reform solution with members of Congress over the next several months.

Health Care -- Medicare Home Health Update: At your direction, we have been providing technical assistance to the Congressional Committees of jurisdiction in their efforts to develop changes to the BBAs home health care reimbursement provisions that the industry (Val Halamandaris) feels are harming providers and their ability to provide quality service to Medicare beneficiaries. On Tuesday, Ways and Means Subcommittee Chairman Bill Thomas unveiled a new and fairly creative policy alternative that has some potential. It would raise per beneficiary and industry payment rates and begin to moderate geographical reimbursement disparities. Although not everything the home health folks wanted, Val (Elena: Val is a good friend of the POTUS and the President asked us, as you will recall, to be helpful where we could) sent generally positive signals about it. The primary problem with Mr. Thomas approach is that it would cost \$1.4 billion over 5 years and, rather than use Medicare program payment offsets, would be paid for with the budget surplus. Following on the heels of the Democrats strong vote against surplus-funded tax cuts on Thursday, we believe they (and us) are likely to oppose the proposals financing. Although we might be able to sustain this position, it will place great pressure on us to help produce Medicare offsets -- most of which are politically unviable. We will be meeting with the Democrats on Friday and early next week to determine if we can come up with an acceptable savings package and, regardless, how best to position ourselves on this politically sensitive issue.

Welfare Reform -- Grants to Study What Happens to People Leaving the Rolls: On Friday, HHS awarded \$3 million in grants to 10 states and 3 counties to help gather information about outcomes of families who leave welfare. The studies will track employment and earnings; returns to welfare; participation in Food Stamps, Medicaid, child support and child welfare; and family and child well-being. Florida will look at the impact of welfare reform on different ethnic groups, and Arizona's study will include a large Native American population. Massachusetts will examine the first group of families to hit their 24-month time limit. Several of the states will also track outcomes for families who are diverted from the rolls and for those who are sanctioned.

Welfare Reform -- New Federal Child Support Case Registry: Next month, HHS will put in place another of the critical building blocks of the interstate child support system proposed in your 1994 welfare reform bill and enacted in 1996. The Federal Case Registry, a national database of child support cases, will make it easier to locate deadbeat parents, particularly those living in other states. The registry will enable HHS to do automatic, daily computer matches of parents who owe support (the Federal Case Registry) and a national employee database (the National Directory of New Hires, a directory created in October 1997 which is updated daily with "new hire" information submitted by employers). These matches will locate working parents who owe child support and provide states with the wage and employer information they need to garnish the wages of the delinquent parent. States will begin to submit their case registry data to HHS on October 1; HHS expects to have 30 states in its system by the end of October and 40 states by the end of the year. In June, at the signing of the Deadbeat Parents Punishment Act, you announced that the National Directory of New Hires had in nine months located one million delinquent parents; the launch of the Federal Case Registry will make the new hire data even more useful by providing even more delinquent cases for it to be matched against.

Community Empowerment -- Regulation B: Last Spring, Treasury coordinated a comment letter to the Federal Reserve signed by DOJ, OCC, OTS, SBA, FTC and HUD that supported a

proposal to amend Regulation B implementing the Equal Credit Opportunity Act to allow, but not require, banks to voluntarily collect data on the race and income of loan applicants, a practice currently prohibited. This data is already reported for home mortgage loans and has proven critical to identifying gaps in access to capital. This revision of Reg B would begin to allow banks to self-assess their outreach and approval practices for non-mortgage loans, especially small business loans. It would also build on the success of your reform of the Community Reinvestment Act. Although the Fed considered and rejected a similar proposal in December 1996, we believe the Fed may be more willing to approve the change at this time. Factors that may influence them favorably include the coordinated Administration letter, supportive comment letters from a few large banks, and recent changes in the composition of the Board of Governors themselves. We now anticipate Federal Reserve action by the end of the year based on past timing, however there is no specific timeline mandated. We will keep you apprised of the situation and should we get advance notice of Fed approval, will seek to arrange an opportunity for you to make a statement in person.

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October 10, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

. Welfare -- California Caseload Numbers: New data from California show that caseloads there have begun to drop steeply. In 1993 and 1994, the welfare rolls rose in the State; in 1995 and 1996, the caseloads fell, but only by 2 percent and 7 percent respectively. The rate of decline this year has nearly doubled from last, with caseloads dropping 7 percent in only seven months. The LA Times carried an article on Thursday noting this caseload "plummet." Twenty two percent of the nation's welfare recipients live in California.

. Welfare -- Studies on Welfare Reform: We have received some preliminary data from two studies tracking individuals who left the welfare rolls in Massachusetts and Maryland. The Massachusetts study found that six months after going off welfare, about 50 percent of these people were working; about 30 percent had other means of support or had left the state; 9 percent had children who had grown too old to qualify; and 6 percent were in the process of reapplying for welfare. The average wage of former recipients was \$6.72 per hour, with the majority of those employed working in the clerical, sales, health care, and service industries. The Maryland study similarly found that 54 percent of former recipients were working within three months of leaving the rolls and that four-fifths were still off the rolls after six months. The study did not account for the remaining recipients, but plans to do so in a follow-up report to be released next year. The study found that welfare recipients with younger children were more likely to return to the rolls. It found no increase in foster care caseloads as a result of welfare reform.

. Welfare -- Exempting Workfare from FICA Taxes: We have expressed support for Rep. Shaws new proposal to exempt workfare participants from FICA and FUTA. Unlike Shaws earlier proposals, this one applies only to employment taxes: it does not exempt workfare participants from minimum wage, health and safety, antidiscrimination, and other worker protection laws; neither does it undermine the welfare laws work requirements. Governors strongly support the legislation, though many think it does not go far enough; unions will not actively oppose it. The Department of Labor has some concern that employers will try to interpret the FICA/FUTA exemption to cover not only participants in traditional workfare programs, but also recipients of subsidized private sector jobs. DPC and the Department agree, however, that we can address this potential problem through regulation. It is unclear what vehicle Shaw will use to move his legislation. He tried to add the proposal to a tax technicals bill in the Ways and Means Committee on Thursday, but had to withdraw it as non-germane before a vote could be taken.

. Welfare -- Senator Murray's Proposal: As you may know, Senator Murray has long advocated a proposal that would wholly exclude individuals with a history of domestic violence from the welfare work requirements and time limits. Currently, states can exempt these women

from work requirements and time limits, but still must put 30 percent of their overall caseload to work and move 80 percent off of welfare after 5 years. Under Senator Murray's approach, if 10 percent of the caseload were granted domestic violence waivers, then only 20 percent of the total caseload would have to work and only 70 percent would be subject to the time limit. This proposal has passed the Senate several times -- most recently as part of the Labor-HHS appropriations bill -- but has always been dropped in Conference. Murray now is lobbying the Administration to make a push for the amendment.

DPC and HHS have told Murray that we have serious concerns with her approach and have suggested some alternative language. (We also have made clear that irrespective of any legislation, we are intending to address this issue in regulations.) We believe that adoption of the Murray proposal would (1) give states a way to "game" the work rates and time limits by handing out waivers to people who don't need them two-fold, and (2) allow states to ignore these women, rather than giving them the services and supports that will help them become self-sufficient. Our preferred approach is for HHS to excuse states from penalties for failing to meet work rates if the states show (1) that their failure is attributable to granting temporary waivers to victims of domestic violence and (2) that they have provided these women with needed services. We believe that this approach will both limit states ability to game the system and ensure that states provide needed services to victims of domestic violence.

. Welfare -- Review of SSAs Childrens Disability Determination Process: In a meeting with you last month, disability advocates expressed concern about the process for redetermining the eligibility of 288,000 children for SSI benefits under the new childhood disability standard. At that meeting, you stated that you had asked SSA to send you a report on its process in 30 days. While that meeting was going on, Ken Apfel was testifying at his confirmation hearing that he would begin a "top-to-bottom" 30-day review of the process as soon as he was confirmed. He was confirmed a few weeks later. SSA has requested that, instead of having two overlapping 30-day reviews, we have a single 30-day review beginning from the date of Apfels confirmation. Advocates appear to be comfortable with this revised timetable, and we have approved it.

. Adoption -- Senate Legislation: A bipartisan group of Senators led by Rockefeller and Chafee and including Craig, Jeffords, Dewine, Bond, Coats, Levin and Landrieu have announced agreement on child welfare legislation called the Promotion of Adoption, Safety and Support for Abused and Neglected Children Act (PASS). As you know, the House passed a child welfare bill last spring, but Senate action had been stalled. Like the House bill, PASS incorporates many provisions of your Adoption 2002 proposal. It also includes other measures that we support, including judicial reforms and reauthorization of the Family Preservation and Support Act. The Senate bill, however, also contains a provision that we do not like to "delink" federal adoption assistance from means-tested programs (effectively providing such assistance regardless of income). We do not believe this provision will increase the number of adoptions; in addition, it costs \$2.4 billion and is paid for with an offset that the Administration had hoped to use for other priorities (such as child care). We therefore are working with HHS, OMB, and the First Ladys Office to develop a less expensive and more sensible proposal that Chafee and Rockefeller might accept.

. Education -- Charter Schools Bill: Ten Democrats and fourteen Republicans on the House Education Committee voted on Thursday to approve amendments to the Charter Schools Program. The bill would provide incentives to states that allow the number of charter schools to increase, give charter schools significant autonomy, and periodically review charter schools to ensure that academic performance requirements are met. The bill also

incorporates your goal of increasing the number of charter schools to 3,000 by the year 2000. Prior to committee action, the DPC and Department of Education worked with members to make substantial improvements in the bill. One outstanding issue is that the bill would allow grants to existing charter schools to continue for five years, potentially reducing start-up funds for new schools and risking long-term dependence on federal funding. We will continue to work with the sponsors, but you can now give the bill your strong support.

8. Education: National Tests -- As the Labor/HHS conference proceeds, Obey, Porter and a number of others have begun to float possible compromises on the national tests. Each of the proposals presumes that we receive the funds and authority to develop the tests under NAB's control. They differ primarily with respect to the circumstances under which test implementation would be permitted to proceed. Specific proposals include (1) requiring specific Congressional authorization before implementation; (2) requiring a majority of states to sign up before implementation could begin; and, (3) making test implementation an allowable state and local use of Chapter II funds, but providing no specific funding for initial implementation. An option reflecting a different approach would require that we undertake the R&D to statistically link tests already used by states and local school districts to the NAEP performance standards so that states could continue to administer the same tests and provide students with a statistically-derived score on the national test as well. Most of these alternatives have some clear advantages as well as clear down sides, with none emerging as a clear favorite for us. We are working to identify modifications that could strengthen each of them, and to identify additional possibilities as well. As of yet, none of these has gained any significant backing among conferees, or support from Goodling.

Goodling and Ashcroft publicly are hardening their opposition to the tests. Ashcroft has announced that he now has 35 Senators lined up in opposition to the tests (though he has not produced a list of them), up from the 27 he named a week ago. Both Goodling and Ashcroft have sent Secretary Riley a series of letters continuing to criticize steps the Education Department had taken prior to its temporary halt on test development.

In addition, Goodling announced at Thursday's scheduled mark-up on America Reads that he was postponing action on the bill until we reversed our position on national testing. In reality, Goodling is under strong pressure from the right wing on his committee not to advance a reading bill that reflects our priorities. Consequently, Goodling is now in the position of blocking two key steps to improve early reading--higher standards and tests and a reading program that helps families, schools and volunteers help kids learn to read.

On Wednesday, John Doerr, Jim Barksdale and 4 additional high-tech CEO's met with Gingrich, Lott, Goodling, and a number of other Republicans in both houses to urge them to support the tests. Feedback from their meetings as well meetings Leg. Affairs has had suggest that both Lott and Goodling are urging that a compromise be found.

10. Health Care: Surgeon General Confirmation -- The Senate Labor and Human Resources Committee held its confirmation hearing for Dr. David Satcher this Wednesday. The hearing went extremely well, and Senators on both sides of the aisle praised Dr. Satcher. Few controversial issues were raised. He was not questioned on many of the high profile issues we were expecting, including needle exchange and AIDS research in Africa. It appears likely that the final full Senate vote on Dr. Satcher's confirmation will take place as early as the week of October 20th.

11. Health Care: New York Provider Tax -- On Thursday HHS met with Governor Pataki and

members of the New York delegation as it released its announcement of how the Administration will work towards ensuring that all states provider taxes are in compliance with the law. Clearly Governor Pataki chose to portray our response as being completely unsatisfactory. This is the case despite the fact that our position on provider taxes is the most favorable position we could have taken for New York (and all other states with potentially impermissible provider taxes) within the constraints of the law. If this wasnt the case, we would not be having to ask for legislation to give the Secretary authority she does not now have to waive up to all past liability for currently impermissible taxes. It is further validated by those staff members of the House Committee of Jurisdiction (who hate provider taxes) who are criticizing us for being too favorable to New York and resentful that we are pushing a legislative strategy. All things considered, however, we believe that our positioning on this issue is as well as could be hoped for and most realistically positions us to eventually and most expeditiously ensure that all states come into compliance.

13. Health Care: Kassebaum-Kennedy Implementation -- As you know, there was a story in The New York Times last Sunday that reported that some insurers are giving agents incentives to not enroll high-risk populations. Such actions are completely inconsistent with the spirit of the Kassebaum-Kennedy law. We are meeting with HCFA, the agency responsible for administering this provision of the new law, to review all of the Federal and State statutory authority to stop such practices. We will keep you apprised as we move forward.

14. Health Care: Confirmation of Nancy-Ann Min DeParle as HCFA Administrator -- Nancy-Ann Min DeParle, your new appointment for HCFA Administrator, has had two Senate holds placed on her confirmation. Senator Harkin (D-IA) has placed a hold because of his frustration with the Administrations lack of enforcement of his fraud and abuse priority initiatives. Senator Kyl (R-AZ) has just placed a hold apparently because of his concern about the Administrations opposition to his amendment to reopen up the balanced budget act to allow physicians negotiate private contracts with Medicare beneficiaries.

On Wednesday Nancy-Ann met with Senator Harkins staff and made a commitment to address many of the Senators priorities. The Senator and his staff seemed quite pleased and it appears likely that Harkin will soon release his hold. Since Senator Kyls hold was placed on Thursday of this week, we have not had the opportunity to arrange an acceptable arrangement to remove his hold. We are still conducting a thorough policy review on the Kyl Amendment, but are concerned that it could lead to more fraud and abuse in Medicare and dramatically increase beneficiary out-of-pocket costs.

We believe that the fact that Nancy-Ann has not been confirmed undermines her ability to be as effective as possible in administering one of the most complex and complicated agencies in the Federal government. We have and will continue to make her confirmation one of our highest priorities this fall.

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December 6, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. Budget and State of the Union: Over the next few days, we will send you memos on proposed initiatives to include in your FY 99 budget and State of the Union. These initiatives involve education, child care, health, crime, welfare, housing, and civil rights enforcement.
2. Health -- Pediatric Labeling: You recently asked about a New York Times story on the Administrations pediatric labeling regulations. The Times reiterated the pharmaceutical industrys claims that clinical trials required under the regulation will expose children to inappropriate and potentially harmful doses of medication. These claims, however, are spurious. The testing requirement generally ensures that doctors will not endanger children by giving them inappropriate doses of medication. When the application of this requirement poses unacceptable health risks to children, the FDA Commissioner has the authority to waive it. The American Association of Pediatrics and other consumer advocates immediately responded to the Times article by emphasizing the ethical propriety of, and the medical need for, this regulation. The industrys true complaint is not with the regulations ethics, but with its cost. Even here, however, the industry has no legitimate grievance: the FDA reform bill you recently signed contains a provision to give a company that has tested a drug for use on children the exclusive right to market that drug for six months.
3. Health -- Medicaid AIDS Demonstration: About six months ago, the Vice President asked HHS to consider the feasibility of a demonstration program that would provide Medicaid coverage to relatively healthy HIV-infected people, so that they could get the benefits of early drug treatment. After much study, HHS concluded that a program of this kind would cost a significant amount of money (\$8 billion over five years), thus violating the Administration's rule of budget neutrality for Medicaid demonstrations. We now have asked HCFA to develop a legislative proposal for a capped Medicaid demonstration to provide HIV-infected individuals with early access to drugs. The Vice Presidents request created high expectations among AIDS advocates, and they are demanding that the Administration make room for this program (in addition to increasing support for other AIDS treatment and research activities) in the FY 99 budget. We will give you an options memo on this issue later this week.
4. Race -- Race and Service Link: We are attaching a column by Steve Waldman of U.S. News arguing that service activities by people of diverse backgrounds, such as AmeriCorps CityYear program, does more to foster racial understanding than dialogue or more traditional efforts to promote racial harmony. In keeping with this article, Harris Wofford has urged the race initiative to focus on common action by Americans of different backgrounds. In a recent note to us, you indicated that you would like to engage in

service activity on Martin Luther King Day, in recognition both of Dr. King and the effort to make the holiday "a day on, not a day off." We are currently considering whether you should go to a literacy project connected to D.C. Reads, where AmeriCorps members, local work-study students, and senior volunteers help teach children from kindergarten to the third grade how to read.

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December 12, 1997

MEMORANDUM FOR THE PRESIDENT

FROM: Bruce Reed
Elena Kagan

SUBJECT: DPC Weekly Report

1. Health -- Mental Health Parity Regulation: The Wall Street Journal is expected to run a story Monday on how the Administration will implement the provision in last years mental health parity legislation that exempts businesses from complying with the parity requirement if they can show that doing so would increase their costs by more than one percent. The story will report (accurately) that the Administration has decided to require businesses to comply with the parity requirement for at least six months prior to claiming an exemption. (As you recall, the other option under consideration would have allowed businesses to claim an exemption even before complying with the requirement, based solely on projections from current cost data.) The Administration is not issuing the regulation until the end of next week, but HHS sources leaked it to the Journal. The Journal will portray the regulation as a victory for mental health advocates over business.

2. Crime -- Homicide Study: The National Institute of Justice issued a study of homicide in eight U.S. cities last week. Some of the key findings of the ten-year study (1985-94) are: (1) the proportion of homicides committed with firearms increased throughout the ten-year period, to approximately 80 percent; (2) homicide rates were strongly linked to crack cocaine use throughout the period; (3) black men between the ages of 18 and 24 represented a disproportionately high -- and steadily increasing -- percentage of homicide victims in all cities (in Baltimore, these men were 24 times more likely than the average person to be the victim of homicide); (4) homicides where the victim and offender were related or intimate made up only 20 percent of all homicides, but over 50 percent of female-victim homicides; and (5) homicide rates were somewhat related to poverty and employment levels. The eight cities studied were: Atlanta, Washington DC, Detroit, Tampa, New Orleans, Richmond, Indianapolis, and Miami.

3. Crime -- Death Penalty Study: The Justice Department will release new data on Sunday showing an increase in prisoner executions. During the first 11 months of this year, 70 prisoners were executed in 16 states -- 25 more prisoners than in all of last year. Texas alone accounted for 36 of these executions, the highest number in a single state since 1930. In 1996, the length of time a prisoner sat on death row before execution was 10 years and 5 months -- 9 months shorter than in 1995. Among the 358 individuals executed between 1977 and 1996, 56 percent were white, 37 percent were black, 21 percent were Hispanic, and 3 percent were members of other racial groups.

4. Crime -- Boston Juvenile Homicide: A Boston youth was shot to death last week, for the first time in two and one-half years. The 16 year-old Dorchester youth was unarmed and had no known criminal history.

5. Welfare Reform -- Reports Released by Union-Sponsored Group: On Wednesday, Jobs With

Justice, a group funded primarily by AFSCME, SEIU, and the AFL-CIO, released two reports critical of welfare reform. The first, called Welfare Reform as we know it, is highly critical of workfare programs. Welfare recipients quoted in the report, which is largely anecdotal in nature, complain that workfare assignments are not paid as well as comparable work, do not lead to real jobs, and do not meet all required health and safety standards. We find some of the specific charges worrisome, but do not agree with the overall message of the report, which is that welfare recipients should not be required to work unless they are trained and placed in skilled, well-paid, and unionized jobs.

The second report, Welfare Reform: The Jobs Aren't There argues that there are about twice as many welfare recipients seeking work as there are low wage jobs. The report arrives at this conclusion by estimating that (1) 430,000 low-skilled jobs were created in 1997 and 270,000 will be created in 1998, and (2) one-third of all adults on welfare, or 1.2 million persons, will need to enter the labor force next year as a result of the 30 percent participation rate established by the welfare law.

Our own economists and welfare experts dispute the reports conclusion, along with the estimates that underlie it. CEA notes generally that the U.S. economy historically has shown a tremendous capacity to absorb new workers -- e.g., the millions of women and baby boomers who joined the workforce during the last 30 years -- and should be able to do so again. More specifically, CEA believes that this study greatly underestimates the number of available low-skilled jobs because it counts only jobs in occupational categories with average incomes in the lowest 20 percent, omitting all low-skilled jobs in occupational categories with higher average incomes. At the same time, HHS staff believe that this study greatly overestimates the number of welfare recipients needing jobs because it fails to recognize (1) that some welfare recipients are already working and thus will not need "new" jobs, and (2) that states can (and almost all will) lower the required work participation rates through caseload reduction. HHS staff estimate that the work rates will require between 440,000 and 880,000 people to begin "work activities" in 1998, depending on the extent of caseload reduction. And even these people may not need "jobs" as defined by economic statistics because the law allows states to count community service, workfare, vocational education, high school (for teen parents), and some job search as work activities.

6. Welfare -- Food Stamps for Legal Immigrants: You asked about an article in this weeks New York Times that describes the impact of food stamp cutoffs on legal immigrants in New York. The welfare law cut off food stamps to over 700,000 legal immigrants. Most of these cutoffs occurred in September. Under legislation we supported earlier this year, states have the option of using their own funds to continue food stamp benefits. Three states -- Washington, Nebraska, and Rhode Island -- have restored all benefits. Nine other states (including New York, New Jersey, and California) have offered partial restorations. New York, for example, has made it a county option to restore benefits to the elderly and disabled.

We are currently considering whether to recommend that you include some restoration of food stamp benefits in your FY 99 budget. A full restoration of these benefits would cost about \$3.2 billion over five years. We also could propose a partial restoration that provides benefits to some subset of the legal immigrant population, such as children, families with children, or the elderly and disabled. We have doubts that Congress will entertain any proposal to restore benefits, but a more limited proposal might stand a greater chance of succeeding.

